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SUPREME COURT OF THE UNITED STATES.

No. ~~252.~~ 131.

THE UNITED STATES, APP'TS,

vs.

THOMAS O. LARKIN.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA.

GOVERNMENT PRINTING OFFICE.

883

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"Flugge's Rancho or Boga."

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Transcript of the proceedings in case No. 129.

THOMAS O. LARKIN, claimant, *vs.* THE UNITED STATES, defendants. } For the place named "Flugge's Rancho, or Boga."

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3 *Index to proceedings before U. S. Board of Land Com'rs.*

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered that on this twenty-fourth of March, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Thomas O. Larkin, for the place named "Flugge's Rancho, or Boga," was presented, and ordered to be filed and dooketed with No 129, and is as follows, to wit:

(*Vide* page 5 of this transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *May 1st*, 1852.

In case No. 129, Thomas O. Larkin, for the place named "Flugge's Rancho, or Boga," on motion of the counsel for the claimant, the following order was made, to wit:

(*Vide* page 55 of this transcript.)

SAN FRANCISCO, *Dec.* 15, 1852.

4 In the same case a communication was received from the U. S. surveyor gen'l for California, transmitting a copy of the map and field-notes of survey of the said rancho, and is as follows, to wit:

(*Vide* page 56 of this transcript.)

SAN FRANCISCO, *Jan'y* 4, 1853.

In the case the deposition of John Bidwell, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed.

(*Vide* page 6 of this transcript.)

SAN FRANCISCO, *January* 19, 1853.

In the same case the deposition of W. D. M. Howard, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, with documents marked H. J. T., Nos. 1 and 2, annexed thereto, was filed.

(*Vide* page 9 of this transcript.)

SAN FRANCISCO, *February* 2*d*, 1853.

In the same case the deposition of W. D. M. Howard, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, with document marked H. J. T. No. 1, annexed thereto, was filed.

(*Vide* page 10 of this transcript.)

SAN FRANCISCO, *Aug.* 9, 1853.

In the same case the deposition of Henry L. Ford, a witness in behalf of the claimant, taken before Commissioner Alpheus Felch, was filed.

(*Vide* page 12 of this transcript.)

SAN FRANCISCO, *Aug.* 13, 1853.

In the same case the deposition of David W. Alexander, a witness in behalf of the claimant, taken before Commissioner Alpheus Felch, was filed.

(*Vide* page 14 of this transcript.)

SAN FRANCISCO, *Sept.* 13, 1853.

Case No. 129 called. The counsel for the claimant read the evidence, argued, submitted, and taken under advisement by the board.

SAN FRANCISCO, *January* 24, 1854.

In the same case the deposition of Henry McVicker, a witness in behalf of the claimant, taken before Commissioner Thompson Campbell, was filed.

(*Vide* page 16 of this transcript.)

In the same case the counsel for the claimant filed the following motion and affidavit, to wit:

(*Vide* page 73 of this transcript.)

Which motion was taken under advisement by the board.

SAN FRANCISCO, *February* 28, 1854.

In the same case Commissioner Thompson Campbell delivered the decision of the board upon the motion of the counsel, heretofore, to wit, on the 24 January last, filed, asking care to introduced

the deposition of Henry McVicker, as evidence in this
6 case. Motion granted, and ordered that the case be placed at the foot of the docket.

SAN FRANCISCO, *July* 14, 1854.

In the same case the deposition of Jacob P. Leese, a witness in behalf of the claimant, taken before Commissioner Peter Lot, was filed.

(*Vide* page 17 of this transcript.)

SAN FRANCISCO, *Oct.* 14, 1854.

In the same case the deposition of Alexander Godey, a witness in behalf of the claimant, taken before Commissioner Peter Lott, was filed.

(*Vide* page 21 of this transcript.)

SAN FRANCISCO, *January* 9, 1855.

Case No. 129 was submitted on briefs and taken under advisement by the board.

In the same case the depositions of John A. Sutter and Nicholas Gray, witnesses in behalf of the claimant, taken before Commissioner Peter Lott, the last with documents marked Exhibit "H. P. L." and "J. P. L." annexed thereto, were filed.

(*Vide* pages 22 and 26 of this transcript.)

SAN FRANCISCO, *July* 17, 1855.

In the same case Commissioner S. B. Farwell, delivered the opinion of the board confirming the claim.

(*Vide* page 91 of this transcript.)

And the following order was made, to wit:

7 (*Vide* page 93 of this transcript.)

PETITION.

To the board of commissioners for ascertaining and settling private land claims in the State of California:

Your petitioner, Thomas O. Larkin, of the city and county of San Francisco, in the State of California, respectfully represents to your honorable board, that he claims a certain tract of land on the westerly side of Feather river, sometimes called Flugge's Ranch, sometimes Boga, and sometimes the Feather River Ranch, containing five (5) leagues of land more or less, situated in the county of Butte, in said State of California; that he claims the same in fee, by virtue of a grant made to Charles William Flugge, under the authority of the Mexican government, by Manuel Micheltorena, governor, commandant general and inspector of the department of the Californias,

bearing date the (21st) twenty-first day of February, one thousand eight hundred and forty-four, (1844,) and approved by the territorial deputation on the thirteenth (13th) day of June, one thousand eight hundred and forty-five.

Your petitioner further represents, that the said grantee,
8 Charles William Flugge, on the twenty-first (21st) day of January, one thousand eight hundred and forty-seven, (1847,) transferred all his right, title and interest, in and to said land, to the above-named Thomas O. Larkin, who is now the sole owner and proprietor thereof.

Your petitioner would further represent, that the boundaries of said tract of land have been designated and defined, and that the said grantee and those claiming under him have been in the peaceable possession thereof ever since, and that he has no knowledge of any interfering claim.

Your petitioner presents herewith a copy of the original grant of said land in the Spanish language, together with a translation of the same, and will make further proof of title if required by the board.

Your petitioner prays your honorable board to take into consideration his claim to said tract of land, and decree his title to be valid *and decree his title to be valid,* and confirm the same.

And your petitioner will ever pray.

THOMAS O. LARKIN,
By his Attorney and Counsel, A. C. WHITCOMB.

9 San Francisco, *March* 24, 1852.

Filed in office March 24, 1852.
(Signed) GEO. FISHER, *Sec'y.*

Dep. of John Bidwell.

San Francisco, *Jan'y* 4, 1853.

On this day, before Com. Harry J. Thornton, came John Bidwell, a witness in behalf of the claimant, Thomas O. Larkin, petition No. 129, and was duly sworn, his evidence being given in English. The U. S. associate law agent was present.

Questions by claimant.

Question 1st. What is your name, age, and place of residence, and how long have you resided there; and what has been your expenses in surveying and drafting maps?

Ans. My name is John Bidwell; my age is thirty-three; and my residence is Chico, Butte county, and I have resided in California more than eleven years in Sacramento valley, and I have been engaged much of my time in surveying and making maps.

10 Question 2nd. Do you know the rancho called the Jimeno ranch—the ranch of Larkin's children, on the Sacramento river, and the ranch called the Flugge's Ranch, on the west side of Feather river?

Ans. I am acquainted with those ranchos, and have known them ever since the year 1843; I mean the land which they occupy.

Question 3rd. When were these ranchos occupied; how and by whom?

Ans. In the spring of 1847 I visited the ranch of Larkin's children; it was then occupied by a man by the name of John Williams, and had been so occupied for some time previous. There was a dwelling-house, in which there resided several families, and there was stock upon the place at that time, and it has been occupied ever since down to this time. I was employed in 1847, by Mr. Larkin, to build for him a house on the Flugge ranch, which I did in the spring of 1848, not being able to do it sooner; a man by the name of Yates was put in the house and occupied the place from 1849 until
11 some short time since under Mr. Larkin. The house which I built was burnt, and Yates built another. As to the Jimeno ranch, I saw a house upon it which was occupied in 1848. I know that the house so occupied had been built before that time.

J. BIDWELL.

U. S. law agent present.

Sworn to and subscribed before me, this 4th of Jan'y, 1853.

HARRY J. THORNTON, *Com'r, &c.*

Before Judge Thornton, January 4, 1853,

It is hereby agreed by counsel that the deposition of John Bidwell taken this day before his honor H. J. Thornton, may be used in each of the following three cases, viz: No. 129, No. 130, and No. 131, being three cases pending.

ROBERT GREENHOW,
Ass't Law Agent of U. S.

James Wilson for the petitioner.

Filed in office Jan'y 4, 1853.

(Signed) GEO. FISHER, *Sec'y.*

12 *Dep. of W. D. M. Howard.*

SAN FRANCISCO, *Jan'y* 19. 1853.

On this day, before Com'r Harry J. Thornton, came W. D. M. Howard, a witness in behalf of the claimant, Thomas O. Larkin, petition No. 129, and was duly sworn, his evidence being given in English.

Questions by claimant.

Question 1st. What is your name, age, and place of residence, and how long have you resided there?

Ans. My name is W. D. M. Howard; my age is thirty-three years, and my residence is San Francisco, California, where I have resided for eleven or twelve years.

Ques. 2nd. Are you acquainted with the handwriting of Manuel Micheltorena and Manuel Jimeno, and if yea, look upon the document now shown you, which is marked as Exhibit No. 1 to this deposition, and filed as part hereof, and state whether the names of those persons, where they are written in and to said document, are their genuine signatures?

Ans. I am acquainted with the handwriting of the said persons, Micheltorena and Jimeno, and upon examining said document
13 I state that their signatures to the same are genuine.

Ques. 3rd. Are you acquainted with the handwriting of Pio Pico and Juan Bandini; if yea, look upon the document now here shown you, marked as Exhibit No. 2 to this deposition and filed herewith, and say whether the names of said persons, where they are signed in and upon said document, are their genuine signatures?

Ans. I am acquainted with the handwriting of said Pico and Bandini, having seen them write, and upon examining the said document, I state that their signatures where they occur on the same are their genuine handwriting.

WM. D. M. HOWARD.

U. S. law agent present.

Sworn to and subscribed before me this 19th of Jan'y. 1853.
HARRY J. THORNTON, *Com'r.*

Filed in office Jan'y 19, 1853.
(Signed) GEO. FISHER, *Sec'y.*

14 *Dep. of W. D. M. Howard.*

SAN FRANCISCO, *Feb'y* 2, 1853.

On this day, before Com'r H. J. Thornton, came Wm. D. M. Howard, a witness on behalf of the claimant, Thomas O. Larkin, petition No. 129, and was duly sworn, his evidence being given in English.

In answer to interrogatories propounded to Wm. D. M. Howard, by counsel for the petitioner in the above case, the witness says that he resides in the city of San Francisco; that he has resided in California for the last eleven or twelve years; that his age is thirty-three years. The witness further says that he is well acquainted with the handwriting of Charles W. Flugges and David W. Alexander and Abel Stearns, having often seen these persons write and subscribe their names.

The signature of said C. W. Flugges, and of the said David W. Alexander, and Abel Stearns, to the paper now exhibited to me, are the genuine signatures of those several persons.

Said paper is an original deed given by the said C. W. Flugge to Thomas O. Larkin, dated January 21, 1847, of a rancho on Feather river, which said Flugge executes as grantor, and said Alex-

15 ander and Stearns sign as attesting witnesses. The said paper is marked Exhibit No. 1, and filed herewith and annexed to this deposition.

WM. D. M. HOWARD.

Service acknowledged.

R. O. GREENHOW,
Ass't Law Agent.

Sworn to and subscribed before me this 2d of Feb'y, 1853.
HARRY J. THORNTON, *Com'r, &c.*

Filed in office Feb'y 2, 1853.
(Signed) GEO. FISHER, *Sec'y.*

Dep. of H. L. Ford.

OFFICE OF BOARD OF COMMISSIONERS OF
LAND CLAIMS IN CALIFORNIA,
San Francisco, Aug. 9, 1853.

This day came before Alpheus Felch, one of the commissioners to ascertain and settle the private land claims in California, Henry L. Ford, a witness produced on behalf of the claimant, Thomas O. Larkin, being No. 129 on the docket of the commissioners, and, after being duly sworn, deposed as follows:

The U. S. law agent was notified and attended.

Questions by Mr. Whitcomb, attorney for the claimant.

16 1st question. What are your name, age, and place of residence?

Answer. My name is Henry L. Ford; my age is thirty years, and I reside in Colusa county, in the State of California.

2nd question. Do you know the tract of land called the Flugge Ranch?

Answer. I know a tract of land generally known by that name, lying on the Feather river, on the western bank and a little north of the mountains known as the Butte mountains.

3rd question. What do you know about the taking or giving possession of said ranch?

Answer. On the first of July or latter part of June, 1844, I was at New Helvetia, in Sacramento valley; about that time Mr. Flugge and Capt. Suter, and two other men whose names I don't recollect, started to go, as Mr. Flugge told me, on to the land and to give him judicial possession of it. He said Capt. Sutter was going up with him to his rancho to give him judicial possession; Captain Sutter was at that time alcalde of the northern or Sacramento district.

17 4th question. Did you visit the ranch after that time?

Answer: I was on it or passed over it in 1845, 1846, and 1847, and almost every year since. I saw a small house that was built on it, 1847, I think in the month of July.

HENRY L. FORD.

Mr. Howard, law agent, was present at the taking of this deposition, but declined putting any questions to the witness.

He objected to the testimony of the witness in answer to the third question so far as the witness states what was said by Mr. Flugge, and the testimony is taken subject to that objection.

Subscribed and sworn to before me, at San Francisco, this ninth day of August, A. D. 1853.

ALPHEUS FELCH, *Commissioner.*

Filed in office Aug. 9, 1853.
(Signed) GEO. FISHER, *Sec'y.*

18 *Dep. of David W. Alexander.*

OFFICE OF THE COMMISSIONERS OF CALIFORNIA LAND CLAIMS,
San Francisco, Aug. 12, 1853.

This day, before Commissioner Alpheus Felch, came David W. Alexander, a witness in behalf of claimant, Thomas O. Larkin, case No. 129, and, after being duly sworn, deposed as follows:

Questions by Mr. Whitcomb, attorney for claimant.

1st question. What are your name, age, and place of residence?

Answer. My name is David W. Alexander; my age about forty-one years, and I reside at Los Angeles, in California.

2nd question. Where was you about the month of January, A. D. 1847?

Answer. I was at Los Angeles.

3rd question. Look on the paper here presented to you, marked "Doc. H. J. T., No. 1," and annexed to the deposition of Wm. D. M. Howard, and filed in this case, and state whether you know the persons whose names appear as subscribed thereto, and if so, whether their signatures are genuine, and also whether you subscribed
19 said instrument as a subscribing witness.

Answer. I know Abel Stearns, whose name appears thereon as a subscribing witness. The signature of said Stearns thereto is genuine; I have often seen him write. I know C. W. Flugge, and have seen him write, and have had much correspondence with him; he is now dead; his signature on said paper is genuine, to the best of my knowledge and belief. My own signature as a subscribing witness, appearing thereon, is my own genuine signature. I have a faint recollection of the execution of the instrument. I recollect being requested by Mr. Fluggle to step into his store at Los Angeles and sign a paper as a witness. I cannot positively state that this was the one, but to the best of my knowledge it is.

DAVID W. ALEXANDER.

Mr. Greenhow, assistant law agent, was present at the taking of this deposition, but declined to put any interrogatories to the witness.

Subscribed and sworn before me, at San Francisco, this twelfth day of August, A. D. 1853.

ALPHEUS FELCH, *Commissioner*.

20 Filed in office Aug. 13th, 1853.
(Signed) GEO. FISHER, *Sec'y*.

Dep. of Henry McVicker.

UNITED STATES LAND COMMISSION,
San Francisco, Jan. 16, 1854.

On this day, before Commissioner Thompson Campbell, came Henry McVicker, a witness in behalf of claimant, Thomas O. Larkin, case No. 129, who, after being duly sworn, deposed as follows:

1 ques. What is your name, age, and place of residence?

Ans. My name is Henry McVicker; I am forty years of age, and I reside in Mariposa county.

2 ques. Are you acquainted with the Flugge Ranch, so-called, and if so, what do you know of its occupation, and cultivation, and settlement?

Ans. I am well acquainted with said rancho. It is situated on Feather river, on the left-hand side going up, above the mouth of the river. I can't say about its occupation. I have seen Flugge
21 on the ranch in the summer—the last of the summer; I think at that time there was a house and corral; there was one white man there; there were potatoes planted, but the season was so dry they did not come up. This was in the year 1844. There was cattle on the place; there was also a horse and mares. I came to Califorina on the 5 Aug., 1836.

Questions by associate law agent; none.

HENRY MACVICKER.

Sworn to and subscribed before me this 16th day of January, A. D. 1854.

THOMPSON CAMPBELL, *Com'r*.

Filed in office Jan. 24, 1854.
(Signed) GEO. FISHER, *Sec'y*.

Dep. of J. P. Leese.

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *July* 14, 1854.

This day personally came before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, Jacob P. Leese, a witness on behalf of the claimant, Thomas O. Larkin, in case 129 on the docket of said board.

Said witness being sworn deposed as follows:

22 The U. S. associate law agent present.

Questions by claimant's counsel.

1st question. What is your name, age, and residence?

Answer. My name is Jacob P. Leese; my age, 45 years; my residence, Monterey county, California.

2nd question. Where did you reside in 1844, 1845, and 1846; and what offices, if any, did you hold under the Mexican government?

Answer. I lived during these years in the town of Sonoma, in this State; during all of 1844, and till June, 1845, I was first alcalde of Sonoma.

3rd question. Was you acquainted at that time with Charles W. Flugge; if yea, where did he live, what was his character; and state what you know of his having a rancho on the west side of the Feather river; if yea, what you know of his selling it, and when, and to whom?

Answer. I was acquainted with said Flugge. He was a man of very good character, and was acting as our agent for Capt. Sutter and attending to his business. All I know of his owning a
23 ranch as described, is by *by* common report and general understanding that he had a ranch on the Feather river. It was generally known and called "Flugge's Ranch." I know in the same manner, by common report, that he sold his ranch to Thomas O. Larkin. I first heard of such a sale in the year 1847.

4th question. Are you acquainted with the handwriting of Manuel Micheltorena and Manuel Jimeno; if yea, state your means of knowledge, and look at the document marked Exhibit No. 1, to the deposition of W. D. M. Howard, in No. 129, H. J. T., and filed in this case, and state whether their signatures in said document are genuine?

Answer. I am acquainted with the handwriting of Micheltorena and Jimeno; have seen them both write and had communications from them, and I believe these to be their genuine signatures.

5th question. Was you acquainted with Walter Colton, and William R. Garnor, and William S. Johnson, and with their handwriting, respectively; if yea, state your means of knowledge?

24 Answer. I know them all very well, and knew each of their handwriting. I have seen them all write.

6th question. What office did said Walter Colton and said Garnor hold in 1847?

Answer. Walter Colton was alcalde of Monterey that year, and said Garnor was his secretary.

7th question. Did said William S. Johnson hold or exercise the functions of any office in the year 1850?

Answer. He was the recorder of Monterey county at that time.

8th question. Look at the document marked "Doc. H. J. T., No. 1," annexed to the dep. of W. D. M. Howard, before Com'r Thornton, and filed in this case, and state whether the names of Walter Colton and William R. Garnor as therein written, and the name of William S. Johnson as therein endorsed, are the genuine signatures of these three persons?

Answer. Yes, these are the genuine signatures of these persons, all of them.

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9th question. Were you acquainted with Pio Pico and Juan Bandini, and with their respective handwriting; if yea, state your means of knowledge, and look at the document marked "Exhibit No. 2," to the deposition of W. D. M. Howard, to No. 129, H. J. T., and filed in this case, and state if their names as therein written are their genuine signatures?

Answer. I know them both, and know their respective handwriting. I have seen Pio Pico write frequently, and have seen letters from Juan Bandini, and I believe these to be their genuine signatures.

J. P. LEESE.

Subscribed and sworn to before me on this 14th day of July, A. D. 1854.

PETER LOTT, *Com'r, &c.*

Filed in office July 14, 1854.

(Signed) GEO. FISHER, *Sec'y.*

Dep. of Alex. Godey.

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *Oct.* 12, 1854.

This day came before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, Alexander Godey, a witness on behalf of the claimant,
26 Thomas O. Larkin, in case No. 129 on the docket of said board, and said witness being sworn, deposed as follows:

The U. S. associate law agent is present.

Questions by the claimant in person.

1st question. What is your name, age, and residence?

Answer. My name is Alexander Godey; my age, 36 years; my residence in Santa Clara county, California.

2nd question. When did you first come to California, and in what business?

Answer. I first came to California in January, 1844. I was with Col. Frémont's exploring expedition.

3rd question. State whether you have been acquainted with a rancho on Feather river called "Boga," or "Flugge's Rancho," which belonged to Charles W. Flugge, and did you know him?

Answer. I know said rancho and said Flugge. I was there on the rancho in the rainy season of 1845 and 1846. I saw Mr. Flugge there and another man with him, they were living in a shanty
27 there. There were some horses there about the place belonging to Flugge; there were some cattle there; I killed one and Flugge made me pay for it. Flugge told me that was his place, and I had heard of his having a place there in 1844. When I afterwards met Flugge in Los Angeles, in 1846, he told me he had left the rancho on account of his eyesight having failed him.

4th question. State where said rancho is situated, as near as you can?

Answer. It is situated on the west bank of Feather river, some 20 or 25 miles above Hock Farm, the place of Gen'l Sutter.

ALEX. GODEY.

Subscribed and sworn to before me on this 12th day of October, A. D. 1854.

PETER LOTT, *Com'r &c.*

Filed in office Oct. 14, 1854.
(Signed) GEO. FISHER, *Sec'y.*

28 *Dep. of J. A. Sutter.*

UNITED STATES OF AMERICA, *State of California, ss:*

SAN FRANCISCO, *Jan'y* 6, 1855.

This day came and was sworn before Peter Lott, commissioner for taking testimony before the board of U. S. land commissioners in said State, John A. Sutter, a witness on behalf of the claimant, Thomas O. Larkin, in case No. 129 on the docket of said board, and said witness deposed as follows:

The U. S. associate law agent was present.

Questions by claimant's counsel.

1st question. What is your name, age, and residence?

Answer. My name is John A. Sutter; my age, 52 years; my residence in Sutter county, California.

2nd question. State how long and where you have lived in California, and what office, if any, you held under the Mexican government from 1844 to 1846.

Answer. I have lived fifteen years and a half in California, all the time upon the Sacramento river. From 1844 to 1846 I was
29 military commandant of the northern frontier, and was, during the same time, clothed with civil power as an alcalde or justice of peace.

3rd question. Were you acquainted with the rancho called Boga, or Flugge Rancho, on the west bank of Feather river, formerly belonging to Chas. W. Flugge; and did you know said Flugge from 1844 to 1846?

Answer. I know said rancho, and also said Flugge, very well, from 1844 to 1846.

4th question. State whether you went to said rancho with said Flugge in 1844, and, as alcalde of that district, put him in possession of said rancho?

Answer. I did go and put him in possession of said rancho in 1844, I was acting as alcalde of the district.

5th question. State whether said Flugge was in your employ at New Helvetia in 1843, and part of 1844, and whether in the latter year he left your employ to establish said ranch.

Answer. Said Flugge was in my employ several years, and in 1844 he went to take charge of said rancho. I paid him off, when
30 he left my employment, with horses and cattle, with which I understood he intended to stock said ranch. He took people up with him when he went up with the stock, and I believe they went on to the ranch, but I did not go up and did not, of course, see them there.

6th question. When did said Flugge leave Feather river? Where did he go, and why?

Answer. I think he left there in 1844, on account of his health; he became very sickly, on account of the climate, and went to the south. I think he remained only about a year on the ranch.

7th question. Look at the document now shown you, marked A. P. L., as an exhibit to this deposition, and say whether it is the original certificate given by you, being a map in said document between pages 7 and 8 thereof. State whether the signature of your name thereto is your genuine signature; or if said paper is a copy, state whether it is a correct copy of said certificate given by you, and whether you signed said original.

Answer. This is a traced copy of the map I certified, and
31 the certificate thereon was signed by me. I suppose the original is in the archives, which bears my genuine signature; this is a true copy of that original.

Cross-examined by U. S. associate law agent.

1st question. Under what authority did you proceed to give the juridical possession of said rancho?

Answer. I acted in this as in other cases, under the general authority and instructions from the Mexican government.

2nd question. What form was used by you in giving this possession?

Answer. There was very little ceremony used. I acted in this case as I did in others. I went in person on the land with the claimant; we rode about on the place, and I told him that I gave him lawful possession of his land. This was after I had seen the map which I had certified.

J. A. SUTTER.

Subscribed and sworn to before me on this 6 day of January, A. D. 1855.

PETER LOTT, *Commissioner.*

32 Filed in office Jan'y 9, 1855.
(Signed) GEO. FISHER, *Sec'y.*

Dep. of Nicholas Gray.

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *Jan'y* 3, 1855.

This day came before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, Nicholas Gray, a witness on behalf of the claimant, Thomas O. Larkin, in case No. 129 on the docket of said board, and said witness being sworn, deposed as follows:

The U. S. associate law agent is present.

Questions by claimant in person.

1st question. What is your name, age, and residence?

Answer. My name is Nicholas Gray; my age, 54 years; my residence, in Oakland, Alameda county, California.

2nd question. Are you acquainted with the rancho called
33 "Flugge," or Boga Ranch, on Feather river; if yea, state its locality, describe it, and state also whether you ever surveyed said ranch; and if yea, state under what authority and what circumstance, when it was, and who was with you.

Answer. I know the rancho named; it lies on the west bank of Feather river; it contains about 5 leagues of land, and is situated 4 or 5 miles about a town of Hamilton, in Butte county.

In the summer of 1852, I surveyed said rancho. I received an order and instructions from the then surveyor general of the United States for California, Samuel D. King, to make said survey.

I was sworn as a special surveyor for the purpose. I had with me as chain-carriers and assistants, Henry T. Moore, W. O. Crane, and John D. Whipple, and these were also sworn before a justice of the peace of that county to discharge their duty faithfully.

On the 1st of May, 1852, the board of United States land commissioners made an order directing said rancho to be surveyed, and this was the basis of the order by the said surveyor general.

34 3rd question. Did you, after surveying said rancho, make a return of your survey and field-notes thereof to said U. S. surveyor general, and was it approved by him; if yea, look at the document now shown to you, marked A. P. L., as an exhibit to this deposition, and state whether it contains a true copy of your field-notes and report to the surveyor general thus made and returned?

Answer. I did make such report and return of my field-notes that same summer to Samuel D. King, then the surveyor general as aforesaid, which report and return were examined and approved by him Dec'r 8, 1852, and this document, now shown to me, contains a true and correct copy of said report and field-notes.

4th question. Look also at the map heretofore filed in this case, and now marked "B. P. L.," as an exhibit to this deposition, and state whether it is a true and correct copy of the map of your said

survey as made by you at the completion of said survey, and
35 returned to said surveyor general.

Answer. When I made my said report and return of my field-notes to the surveyor general, I returned the map of my survey with them, and this is a true and correct copy of that map, and it is so certified by said surveyor general.

[This deposition is here temporarily suspended, in order to enable the witness to produce a paper containing his original instructions from said surveyor general.]

P. LOTT, *Com'r.*

JANUARAY 8TH, 1855.

This deposition is again resumed as follows:

5th question. Have you in your possession the original order and instructions of the surveyor general to make the survey in this case? If yea, produce them.

Answer. I have the said instructions, and I have file them with this deposition, marked H. P. L., as an exhibit hereto.

36 6th question. Have you the order?

Answer. I have a certified copy of it from the secretary of this commission, and I file it herewith, marked "J. P. L.," as an exhibit hereto.

Cross-examined by the U. S. associate law agent.

1st question. State what is the shape of said rancho, and how much land it contains?

Answer. It is 17 miles long on Feather river, and will average about 2 miles in width. It contains $21,754\frac{60}{100}$ acres.

NICH'S GRAY.

Subscribed and sworn to before me on this 8th day of January, A. D. 1855.

PETER LOTT, *Commissioner.*

Filed in office Jan'y, 1855.

(Signed) GEO. FISHER, *Sec'y.*

(Here follow two maps.)

37 E.

Original Grant, Exhibit No. 1 *to the Dep. of W. D. M. Howard, in No.* 129, *Jan'y* 19, '53.

Sello primero, ocho pesos.

Habilitado provisionalm'te por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

MICHELTORENA.

PABLO DE LA GUERRA.

[SELLO.] El ciudadano Manuel Micheltorena, general de brigada Mejicano, ayudante general de la plana mayor del mismo, gobernador, command'te g'ral é inspector del departamento de Californias.

Por cuanto Don Carlos Guillermo Flugge, Mejicano por naturalizacion ha pretendido para su beneficio personal la estencion de cinco sitios de ganado mayor al lado occidental del Rio de las Plumas, y en el centro en un terreno que llaman Boga, debiendo ser su primer lindero desde el grado 39, 33, 45 de latitud norte segun esplica el diseño respectivo, practicadas previam'te las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos, usando de las facultades que me son conferidas á nombre de la
38 nacion Mejicana he venido en concederle el terreno mencionado sugetandose á la aprovacion de la exma. asamblea departam'te y á las condiciones siguientes.

1a. Debera prudencialm'te tratar bien á la Indiada que por dicho terreno se halla establecida infundiendoles confianza ideas de sociabilidad y civilizacion como tambien religiosas de Catolisismo y no se les impedira el uso que por el mencionado parage hagan como siembras pesca, &c.

2a. No podra venderlo enagenarlo ni hipoticarlo imponer senso vinculo ni otro gravamen alguno.

3a. Cuando se confirme la propiedad de él solicitará del juez respectivo que le de posesion juridica en virtud de este despacho por el cual se le demarcaran los linderos en cuyos limites pondra á mas do las mojoneras algunos arboles frutales ó silvestres de alguna utilidad.

4a. El terreno de que se hace donacion es de cinco utios de ganado mayor segun demarca el diseño que corre en el esped'te respectivo. El juez que diere la posesion lo hará medir conforme á orde-
39 nanza que dando el sobrante á la nacion para los usos que le convenga.

5a. Si contraviniere á estas condiciones perdera su derecho al terreno y sera denunciable por otro.

En consecuencia mando que teniendose por firme y valedero el presente se tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines.

Dado en Monterey á veinteuno de Febrero de mil ochocientos cuarenta y cuatro.

MAN'L MICHELTORENA.
MAN'L JIMENO, *S'rio.*

Queda tomada razon de este despacho en el libro respectivo a foys' 6.
JIMENO.

Filed in office Jan'y 5th, 1853.

GEO. FISHER, *Sec'y.*

903

"H."—Translation of grant.

The citizen Manuel Micheltorena, general of brigade of the Mexican army, adjutant general of the staff of the same, governor, commandant general and inspector of the department of Californias

Whereas Charles William Flugge, Mexican by naturalization,
40 has petitioned, for his personal benefit, for a tract of land consisting of five "sitios de ganado mayor," situate on the westerly side of Feather river, in the centre of which there is a piece of land called Boga; the first boundary of the said land beginning at 39, 33, 45 degrees north latitude, as appears from the corresponding plan, the necessary preliminaries and investigations having been gone through as directed by the laws and regulations, putting into effect the authority in me vested in the name of the Mexican nation, I have come to the conclusion to grant unto the petitioner the above-mentioned lands, to be subject to the approval of the most exc't departmental assembly, and to the following conditions:

Firstly. He shall with all prudence give good treatment to the Indians who are settled about the said lands, by giving them ideas of sociability and civilization, as well of the Catholic religion, and the use which they may make about the said land; such as planting, fishing, &c., shall not be permitted to them.

Secondly. He shall not sell it, dispose of it, nor mortgage
41 it, impose rent, tax, or any other incumbrance whatsoever.

Thirdly. When the title of ownership shall have been confirmed to the petitioner he shall apply for legal possession to the corresponding authority by virtue of this decree, by whom the boundaries shall be marked out, within the limits of which he shall put, besides the land marks, some fruit of forest trees of some utility.

Fourthly. The land which is hereby granted consists of five sitios de ganado mayor, as is represented in the plan attached to the corresponding dispatch.

The judge who should give possession shall order it to be measured, in conformity to ordinance, and the surplus to remain to the nation for convenient purposes.

Fifthly. Should the petitioner violate these conditions he shall lose his right to the land and shall be liable to be denounced by another.

In consequence, I order that the present being held firm and valid record be taken thereof in the respective book, and that it should be delivered unto the petitioner for his security and other purposes.

Given in Monterey this twenty-first day of February, one
42 thousand eight hundred and forty-four.

(Signed) MAN'L MICHELTORENA.
(Signed) MANUEL JIMENO, *Sec'y.*

Due record has been taken of the above decree in the respective book fo. 6.

(Signed) JIMENO.

I certify the foregoing is a true and correct translation.
San Francisco, December 21, 1853.
(Signed) GEO. FISHER, *Sec'y.*

1.—S. D. K.

Espediente.

Promovido por Don Guillermo Flugg en solicitud de parage nombrado. Pio de las Plumas. Año de 1844. Numero 349.

2.—S. D. K.

D'n Carlos Guillermo Flugg.

3.—S. D. K.

Sello tercero, un peso.

Habilitado provicionalmente por la aduana maritima del
43 puerto de Monterey en el departamento de las Californias, para el año de mil ochocientos cuarenta y tres.

MICHELTORENA.
MANUEL CASTAÑARES.

4.—S. D. K.

[SELLO.] A su excelencia el señor comandante general y gobernador de ambas Californias.

MONTEREY, D'bre, 31, de 1843, Inf'e el S. S'rio del despacho pidiendo antes los q'e necesitare al efecto.
MICHELT'A.

Carlos Guillermo Flugge, de Hannover, y residente en este departamento ha de dos años ante V. E. con el devido respeto y dijo: que hallandome desevro de concequir un terreno valdio utuado sobre el lado occidental del Rio de las Plumas y estendiendose sobre el dicho rio de latitud del norte, 39° 33′ 45″ hastos, el grado 39° 43′ 45″, y formando encima de esta linea un cuadrado una legua de ancho se llamen Boga, segun consta el adjunto diseño, A. V. E. en lo que recibré merced.

MONTEREY, *y* 22 *de Diciembre de* 1843.

Carlos Guillermo Flugge, como dispone el e'xma s'or gobernador, pare la presedente instancia al S'r Sutter, como encargado de la frontera del rio del Sacramento p'a que informe sobre su contenido.
44 Monterey 4 de Enero, de 1844.

MAN'L JIMENO.

El terreno que solicita en este pedimento el Señor Don Carlos Guillermo Flugge, y que es representado en el adjunto diseño esta desocupado y doy esta certificacion para los fines que convengan.
Nueva Helvetia, Enero 27 de 1844.

J. A. SUTTER.

5.—S. D. K.

Jusgado del distrito del rio Sacramento.

EXM'O S'OR GOBERNADOR: Estoy bien informado que el terreno que se pretende esta sobre el Rio de las Plumas en donde hoy mucha Indiada que podria resentirse si no se les hiciera ver primero que se va á proceder á la colonizacion de aquellos terrenos y deberan ser preferidos en consederseles los terrenos que tienen ocupados y los que necesitan para el beneficio derellos y de sur familiar, infundiendoles esta confianza y podran ser mas bien uttler á sur colindantes; que no perjudiciales. El superior dicernim'to de V. E. resolvera lo conveniente.

Monterey, Febrero 20 de 1844.

MANUEL JIMENO.

(Here follows diseño, page 44.)

45 6.—S. D. K.

MONTEREY, *Feb'o* 21 *de* 1844.

Espidose el titulo advirtiendo en el las prudencias q'e debe usar tratando bien á las Indiadas infundiendoles confianza ideas de socialidad y civilizacion como tambien religions de para que poco á poco conosean el bien q'e á ellos mismor resulta de la compañia y amistad.

MICHELT'A.

7.—S. D. K.

MONTEREY, 21 *de Febrero de* 1844.

Vista la peticion con que da principio este espediente, los informes que preceden con todo lo demas que se tubo presente y ver convino de conformidad con las leyes y reglamentos de la materia, declaro á Don Carlos G'mo Flugge, dueño de cinco sitios de ganado mayor al lado occidental del Rio de las Plumas y en al centro de un terreno que llaman Boga deliendo ser su primer lindero des de el grado, 39, 33, y 45 de latitud norte librere el correspondt'e.

8.—S. D. K.

A la excelentisima asamblea departamt'l del departamento de Alta California, Carlos Guillermo Flugge, ciudadano Mejicano por naturalizacion, con el devido respecto ante la excelentisima
46 asamblea departamental se presenta diciendo: que habiendo recibido del Senor General Manuel Micheltorena, la concesion de cinco sitios de ganado mayor al lado occidental del Rio de las Plumas, en un terreno que llaman Boga segun consta en el titulo aqui incluso dado en Monterey, á veinte y cinco de Febrero de mil ochocientos cuarenta y cuatro.

A la excelentisima asamblea departamental humildemente suplica que se sirvd das la aprobacion á la dicha donacion y que admite este pedimento en papel comun por falta del sellado.

Angeles, y 23 de Mayo de 1845.

C. W. FLUGGE.

ANGELES, *Mayo* 26 *de* 1845.

Dado cuenta á la ex'ma asamblea en sesion de hoy con esta solicitud y titulo adjunto se para á la comision de terrenos valdios.

PIO PICO, *Presd'te.*
AGUSTIN OLVERA, *S'rio.*

9.—S. D. K.

EX'MO S'OR: La comision de torrenos valdios habiendose hecho carjo con toda la escrupolosidad posible del espedidnte formado
47 en virtud de la solicitud hecha p'r D'n Guillermo Flugge, con f'ha 22 de Diciembre de 1843, sobre el parage nombrado Boga situado al lado occidental del Rio de las Plumas q'e le fue consedido p'r titulo regalmente librado p'r el gobierno del departamento con f'ha 21 de Febrero de 1844, y resultando del examenverificado q'e la consecion espresada en favor de D'n Carlos Guillermo Flugge, fue ejecutada con total arreglo á lo q'e sobre el particular disponen las leyes; la comision en conseniencia de lo referido pone á la deliveracion de V. E. la sigmente proposicion.

Se aprueba la consecion hecha por cuid'a Mejicano p'r naturalizacion Carlos Guillermo Flugge del parage nombrado Boga situadas al lado occidental del Rio de las Plumas consedido en propiedad el dia 21 de Febrero de 1844 decretera conformidad con lo prevenido en la ley de 18 de Ag'to de 1824, y el articulo 5° del reglamento de 21 de Nov'bre de 1828.

Sala de comisiones en la ciudad de los Angeles, Julio 2 de 1845.

IGNACIO DEL VALLE.

10.—S. D. K.

ANGELES, *Julio* 13 *de* 1845.

En sesion de este dia se aproba por la honorable asamblea
48 la proposicion del dictamen antecedente mandando se de vuelo á el espediente respectivo al ex'mo s'or gobernador para los fines correspond'tes.

PIO PICO, *Presd'te.*
AGUSTIN OLVERA, *S'rio.*

11—S. D. K.

Se libro al agraciado el comprobante respectivo.

Manuel Micheltorena, g'ral de brigadas del ejercitio Mejicano ajud'te g'ral de las plana mayor del mismo, gobernador comand'te g'ral é inspector del departam'to de Californias.

Por cuanto D'n Carlos Guillermo Flugge Mejicano por naturalizacion ba pretendido para su beneficio personal la estencion de cinco sitios de ganado mayor al lado occidental del Rio de las Plumas y en el centro un terreno que llaman "Boga" de biendo ser su primer lindero desde el grado 39, 33 y 45 de latitud norte segun esplica el diseño respectivo practica das previam'te las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos usando de las facultades que me son conferidas á nombre de
49 la nacion Mejicana ba venido en concederle el terreno mencionado sujetandose á la aprobacion de la ex'ma asamblea departamental y á las condiciones sig'tes.

12.—S. D. K.

1a. Deberá prudencialm'te tratas bien á los Indios q'e p'r d'ho terreno se halle establecida infundiendoles ideas de confianza y de socialidad y civilzacion como tambien religiosos de catolismos y no se les impedira el uso q'e por el mencionado parage hagan como siembras pesca, &c.

2a. No podrá venderlo enagenarlo ni hipotecarlo impones senso, vinculo ni otro gravamen.

3a. Cuando se le confirme la propiedad solicitara del juez respectivo que le posecion jurisdica en virtud de este despacho por el cual se le demarcaran los linderos en cuyos limites pondrá á mas de las mojoneras arboles frutales ó silvestres de alguna utilidad.

4a. El terreno de q'e se hace donacion es de 5 sitios de ganado mayor seg'n esplica el diseño respectivo. El juez q'e diere la posecion lo hara medir conforme á ordenanza que dando el sobrante que resulte á la nacion para los usos q'e la convenyan.

50 En consecuencia mando que teniendose p'r firme y valedero el presente se tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines.

Dado en Monterey á 21 de Febrero de 1844.

13.—S. D. K.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such, now having in my office and under my charge and control a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify that the thirteen preceding and hereunto annexed pages of tracing paper, numbered from one to thirteen, inclusive, and each of which is verified by my initials, S. D. K., exhibit true and accurate copies of certain documents on file and forming part of the said archives in this office.

In testimony whereof I have hereunto signed my name
[SEAL.] officially and affixed my private seal, (not having a seal of office,) at the city of San Francisco, Cal., this fifth day of
51 May, 1852.

SAM'L D. KING,
Surv'y'r Gene'l, Cal.

Filed in office Jan'y 5th, 1852.

GEO. FISHER, *Sec'y.*

J.—Translation of "J."

Record of proceedings at the instance of Don Guillermo Flugge, soliciting the location named "Rio de las Plumas." 1844. No. 349.

MONTEREY, *Dec'r the* 31, 1843.

Let the secretary of government report, asking beforehand for what reports he may want for the purpose.

(Signed) MICHELTORENA.

To his excellency the Hon. commandant general and governor of both Californias:

I, Carlos Guillermo Flugge, a native of the kingdom of Hanover, and residing in this department since two years, appear before Y. E., with due respect, and say that inasmuch as I find myself desirous to obtain a tract of land lying unoccupied, situated on the western
52 side of Feather river, and stretching along (sobre) the said river from 39° 33′ 45″ northern latitude to 39° 48′ 45,″ and forming on this line a square one league in breath. It is called Boga, as it is rendered manifest by the adjoining sketch. I entreat Y. E. to deign to accede to this request, whereby I will receive mercy.

(Signed) CARLOS GUILLERMO FLUGGE.

MONTEREY, *December the* 22*nd*, 1843.

Conformably to the determination of his excellency, the governor directs the preceding instance to be transmitted to Señor Sutter as the party in charge of the frontier of the Sacramento river, in order that he report about its contents.

Monterey, January the 4th, 1844.

(Signed) MANUEL JIMENO.

The tract of land solicited in this petition by Señor Don Carlos Guillermo Flugge, and represented in the adjoined sketch, is unoccupied, and I give this certificate for any convenient ends.

53 New Helvetia, January the 27th, 1844.

(Signed) J. A. SUTTER.

COURT OF SACRAMENTO,
River District:

EXCELLENT SIR, GOVERNOR: I am well informed of the fact that the land solicited lies along (sobre) the Feather river, where there is

a numerous Indian population that might feel resentment if it was not made visible to them beforehand that the colonization of those lands is about to be undertaken, and they ought to be preferred in the grants of the lands which they have in occupancy and those they may want for their benefit and that of their families ; by infusing this confidence into their minds they may more likely be useful than prejudicial to the parties whose lands border on theirs.

Your excellency's superior discernment will resolve what may be convenient.

Monterey, February the 20, 1844.

(Signed) MANUEL JIMENO.

MONTEREY, *February the* 21, 1844.

54 Let the title be issued, and on it he is to be informed that he shall make use of produce, treating kindly the Indian population, infusing into their minds confidence, ideas of sociability, and civilization, and likewise religious ideas of Catholicism, to the end that by slow degrees they may become aware of the welfare resulting to them from the company and friendship.

(Signed) MICHELTORENA.

MONTEREY, *February the* 21*st*, 1844.

After having seen the petition at the head of this record of proceedings, the preceding reports and other steps which were had and ought to be viewed, in conformity with the laws and regulations on the matter, I declare Don Carlos Guillermo Flugge the owner of five square leagues (sitios de ganado mayor) on the western side of the Feather river, and on the centre of a tract of land called Boga. Its first boundary to be reckoned from 39° 33′ 45″ northern latitude.

Let the corresponding be issued.

(The remainder is wanting.)

55 Manuel Micheltorena, general of brigade in the Mexican army, adjutant general in the staff of the same, governor, commander general, and inspector of the department *of the department* of Californias.

Whereas Don Carlos Guillermo Flugge, a Mexican by naturalization, has solicited for his personal benefit the extent of five square leagues (sitios de ganado mayor) on the western side of the Feather river, and on the centre of a tract of land called Boga, its first boundary to be from 39° 33′ 45″ northern latitude, as the respective sketch explains the investigations thereunto concerning, having been previously accomplished according to the prescriptions of the laws and regulations, in the exercise of the authority in me vested in the name of the Mexican nation, I have found expedient to grant to him the mentioned tract of land subject to the approval of the m't excellent departmental assembly and to the following conditions :

1st. He shall prudentially treat with kindness the Indians who are settled about said land, infusing into their minds ideas of confidence, sociability and civilization, and likewise religious ideas of Catholicism,

and they are not to be prevented or debarred from the use
56 they may make about the aforementioned location, such as sowing, fishing, &c.

2nd. He shall not sell, alienate or mortgage it, impose rents or any other encumbrance.

3rd. When the property be confirmed to him, he shall solicit the proper judge to give him the judicial possession by virtue of this patent by whom the boundaries shall be marked out to him, on the limits of which he shall put, besides the landmarks, some fruit trees or forest trees of some utility.

4th. The tract of land granted is of five square leagues, (sitios de ganado mayor,) as the respective sketch explains.

The judge who should give the possession shall cause it to be measured according to ordinance, and the residue resulting is to remain to the nation for convenient uses. Consequently, I order that the present document being held as firm and valid, the same be entered in the respective book, and be delivered to the party concerned for his security, and other ends.

Given in Monterey, February the 21st, 1844.

57 *To the m't excellent departmental assembly of the department of Upper California:*

Carlos Guillermo Flugge, a Mexican citizen by naturalization, appears with due respect before the excellent departmental assembly, saying that, having received from the Hon. General Manuel Micheltorena the grant of five square leagues (sitios de ganado mayor) on the western side of the Feather river, on a tract of land called Boga, as it appears by the title herein enclosed, given in Monterey on the twenty-fifth day of February, one thousand eight hundred and forty-four, he humbly entreats the excellent departmental assembly to grant its approval to said donation, and to admit this petition written on common paper in the want of stamped paper.

(Signed) C. W. FLUGGE.

ANGELES, *May the* 23*d*, 1845.

ANGELES, *May the* 26, 1845.

Account having been rendered to the excellent assembly in this day's session with this petition and adjourned title, all was referred to the committee on vacant lands.

(Signed) PIO PICO, *President.*

58 (Signed) AUGUSTIN OLVERA, *Secretary.*

EXCELLENT SIR: The committee on vacant lands having noticed with all possible scrupulosity the record of proceedings at the instance of Don Guillermo Flugge, under date of the 22d day of December, 1843, about the location called Boga, situate on the western side of Feather river, which was granted to him by a title legally issued by the government of the department, under date of the 21st February, 1844, and it resulting from the examination that the expressed grant in favor

of Don Carlos Guillermo Flugge was executed in total conformity with what the laws direct on the subject, the committee, in consequence of what has been related, submits to Y. excellency's deliberation the following proposition.

The grant made to the Mexican citizen, by naturalization, Carlos Guillermo Flugge, of the location named Boga, situate on the western side of the Feather river, made in fee on the 21st day of February, 1844, is approved in entire conformity with the provisions of the law of August the 18th, 1824, and the 5th article of the regu-
59 lation of November, the 21st, 1828. Hall of committees in the city of Los Angeles, June the 2nd, 1845.

(Signed) IGNACIO DEL VALLE.

ANGLES, *June the 13th*, 1845.

In this day's session the honorable assembly approved the proposition of the preceding opinion, ordering that the respective record of proceedings be returned to his excellency the governor for corresponding ends.

(Signed) PIO PICO, *President.*
(Signed) AGUSTIN OLVERA, *Secretary.*

The respective title (comprobanto) was issued to the grantee.
I certify that the foregoing is a true and correct translation.
San Francisco, December 21, 1853.

(Signed) GEO. FISHER, *Sec'y.*

Filed in office Jan'y 5, 1852.

(Signed) GEO. FISHER, *Sec'y.*

60 F.

Approval of dep't assembly, Exhibit No. 2 to dep. of W. Howard, to No. **12**, *H. J. T.*

Pio Pico, primer vocal de la ex'ma asamblea y gobernado interino del departmento de California.

La ex'ma asamblea departmental en resion del dia 13 de Junio del presente año acordo lo signiente: se aprueva la consecion hecha al ciudadano Mejicana por naturalizacion Carlos Guillermo Flugge del parage nombrado Boja situado al lado accidental del Rio de los Plumas concedido en propiedad el dia 21 de Feb'ro, de 1844, de entera conformidad con lo prevenido en la ley de 18 de Agosto de 1824, y el art'o 5'o del reglamento de 21 de Noviembre de 1828.

Y para resguardo del interesado se estiende el presente enpapel comun por falta del sellado en la ciudad de los Angeles á diez y siete de Junio de mil ochocientos cuarentas y cinco.

PIO PICO.
JUAN BANDINI,
S'rio del Despacho.

Filed in office Jan'y 5th, 1852.

GEO. FISHER, *Sec'y.*

61 *Translation of Exhibit No.* 2 *to dep. of W. Howard, H. J. T.*

Pio Pico, senior member of the most excellent departmental assembly and governor *ad interim* of the department of the Californias:

The most excellent departmental assembly, in session of the 13th day of June of the present year, resolved as follows: The grant made to the naturalized citizen, Carlos Guillermo Flugge, of the place named "Boga," situated on the west side of *Feather river*, granted in property on the 21st of Feb'y, 1844, and in entire conformity with the law of the 18th August, 1824, and the 5th art. of the regulation of the 21st Nov., 1828, is approved.

And for the security of the party interested, the present is delivered to him on common paper for the want of sealed, in the city of Los Angeles, the 26th day of June, 1845.

(Signed) PIO PICO,
(Signed) JUAN BANDINI,
Secretary of State.

Filed in office Jan'y 5th, 1852.

GEO. FISHER, *Sec'y.*

62 Sello primero, ocho pesos.

MICHELTORENA,
PABLO DE LA GUERRA.

"*C.*"—*Translation.*

The citizen Manuel Micheltorena, general of brigade of the Mexican army, adjutant general of the plana, mayor of the same, governor, commandant general and inspector of the department of California.

[SEAL.] Whereas Charles William Flugge, Mexican by naturalization, has petitioned, for his personal benefit, for a tract of land consisting of five pastures for black cattle, situate on the westerly side of Feather river, and in the centre of which there is a piece of land called Boga, having its first boundary from the latitude of 39, 33, 45 degrees north, as appears from the corresponding plan. The necessary preliminaries and investigations having been gone through as directed by the laws and regulations, exercising the authority in me vested, in the name of the Mexican nation, I have just granted to him the above-mentioned land, he abiding by the decision of the honorable departmental assembly, and binding himself to the following conditions:

63 Firstly. He ought with all prudence to treat well the Indians who have settled on the said lands by giving them ideas of sociability, confidence, and civilization, as well as of the Catholic religion, and not impede in them the use which they may make of the aforesaid lands for sowing, fishing, &c.

Secondly. He will be able to sell it, dispose of it, nor mortgage it, impose tax, or any other incumbrance whatsoever upon it.

Thirdly. When the title of ownership shall have been completed to the petitioner, he will solicit of the proper judge to give him juridical possession thereof in virtue of this grant, for the which the boundaries thereof shall be marked out within the limits of which, besides the usual landmarks, fruit-bearing and forest trees of some utility shall be planted.

Fourthly. The land which is hereby granted consists of five pastures for black cattle, as is represented in the plan accompanying the respective espediente. The judge giving the possession shall have it measured in conformity to the ordinance, the overplus remaining to the nation for such uses as may be deemed most proper.

64 Fifthly. If he shall contravene these conditions he shall lose his right to the land, and it shall be able to be denounced by another.

In consequence, I order that these presents, being of themselves duly firm and valid, record thereof shall be taken in the proper book, and that they be delivered to the party interested for his security and other purposes.

Given in Monterey this twenty-first day of February, one thousand eight hundred and forty-four.

(S'g'd) MAN'L MICHEL'A.
(S'g'd) MAN'L JIMENO, *S'rio.*

Due record of this grant has been taken in the proper book, fo. 6.
(S'g'd) JIMENO.

Filed in office March 24, 1852.

GEO. FISHER, *Sec'y.*

"*D.*"—*Order of survey.*

In case No. 129, Thomas O. Larkin, Flugge's Ranch.

On motion of the counsel for the claimant the following order was granted, to wit:

For the purpose of determining with precision and certainty
65 the limits and boundaries of the land claimed by Thomas O. Larkin in his petition, No. 129, pending before the commissioners—

It is, on motion of the counsel for the claimant, ordered that an initiatory survey, under the superintendence of the United States surveyor general of California, be made of the land known by the name of Flugge's Rancho, to the extent of five sitios de ganado mayor, on the westerly side of Feather river, and stretching along the said river from 39° 33′ 45″ north latitude to 39° 48′ 45″, also of north latitude, as is represented in the plan accompanying the respective espediente locating the said quantity of five sitios, according to the claim of said Larkin, and having reference to the sketch or plan annexed to the said espediente, but in such manner as to confine

such location within the said limits, and to include in the survey so to be made the said quantity of five sitios.

But this order is not in any manner to determine as against the United States either the question of title, the construction of the grant, the location, boundaries or extent of the land to which the claimant may be entitled.

Filed in office May 1, 1852.
66 (S'g'd) GEO. FISHER, *Sec'y.*

Communication of Sur. General.

U. S. SURVEYOR GENERAL'S OFFICE,
San Francisco, Cal., Dec. 14, 1852.

Hon'ble commissioners to ascertain private land claims in California:

GENTLEMEN: I herewith transmit copy of an approved map of the survey of Flugge's rancho, Thomas O. Larkin, claimant, and a copy of the field-notes appertaining thereto, all which has been executed under the instructions of this office, based upon your order, dated May 1st, 1852.

I am, very respectfully, your ob't servant,
SAM'L D. KING,
U. S. Surv'r Gene'l, Cal.

Filed in office Dec. 15, 1852.
(Signed) GEO. FISHER, *Sec'y.*

67 *Field-notes of survey, A. P. L., Exhibit to dep. of N. Gray.*

FIELD-NOTES OF "FLUGGE RANCHO," ON THE FEATHER RIVER, CLAIMED BY THOS. O. LARKIN, SURVEYED IN JULY AND AUGUST, 1852, BY NICH'S GRAY.

I, Nicholas Gray, surveyor, do solemny swear that, in pursuance of an order from the honorable board land commission's and instructions surveyor general of California, bearing date the 21st May, 1852, I have faithfully surveyed the claim No.—, called the "Flugge rancho" owned by Thos. O. Larkin, esq., on the Feather river, and do further swear that the notes are the true field-notes of such survey.
[SEAL.] NICHOLAS GRAY.

Subscribed and sworn to before me this 28th day of August, 1852, at San Francisco.

CHAS. BAUM, *Notary Public.*

Nicholas Gray having been appointed to survey a private land claim called the Flugge rancho, on Feather river, we, the undersigned, employed by said surveyor as assistants in the capacities of chainmen, axemen, &c., do solemny swear that we will faithfully chain over the even and uneven ground by proper levelling with plumb and

68 tally pins, whether sticking or dropping the same; that we will truly report the true distances to all notable objects, and the true length of all lines that we may assist in measuring, and will mark distinctly and correctly the letters and corners that we may be required by said surveyor, from time to time, in planting the corners, whether the same be posts or mounds, either of earth or stone; together with such other services as we shall be called to perform by said surveyor in the discharge of his surveying duties to the best of our skill and ability, so help us God.

HENRY T. MOORE,
W. O. CRAIN,
JOHN D. WHIPPLE.

Sworn and subscribed before me this 22nd July, 1852.

R. C. BAKER,
Justice of the Peace, Hamilton.

Sworn and subscribed before me.

In pursuance to an order from the honorable board land comr's California, and the instructions from Sam'l D. King, surveyor general, and at the request of Thomas O. Larkin, esq., the owner and
69 claimant of the Mexican grant of five leagues of land on Feather river, I, Nicholas Gray, commenced the survey the 15th July, 1852, by assuming a point on Feather river as the beginning point, viz: Lat. 39° 33′ 45″ north, about 4 miles north of the town of Hamilton, in Butte county, Cal'a., and after ascertaining the variation of the magnetic needle of my compass, made by Dollone, London, to be eastwardly 15° 55′, I run a guide line (to arrive at the northerly point, viz: 39° 48′ 45″ north) in the level open plains, which guide line starts from a point two miles west of the assumed point as above and ran true course and distances as follows:

	Chs.	Lks.	N. 30° E.
N. 30° E.	266	00,	Thence open plain or prairie.
N. 40° W.	240	00,	Thence surface undulating.
N. 15° E.	255	00,	Continue in the valley to "Dry Bayou," running southwest, thence
N. 62½ E.	45	00,	To Hawkins house on the creek, thence
N. 29½ E.	65	00,	Thence
North.	48	00,	Cross path E. and W.
	64	00,	" road N. E.
	80	00,	One mile, level open plain—very few trees.
	18	00,	Cross road E. and W.
	70	00,	Ascend mountain level on top.
	80	00,	On top " " " "
	17	00,	Descend " " " "
70	80	00,	3° mile on table land, no timber.
	80	00,	4° " gently rolling, few pine and oak.
	41	00,	Cross road N. E.
	80	00,	5° mile opposite Goodman's and Anklin's store in open valley—no timber, some chapparral of oak to the crossing of road.
	44	00,	Cross the road N. E.

	80	00,	6° mile, gently rolling, thin soil, reddish color, pine and oak.
	45	00,	Stopped and ran east to avoid creek to the left.
East	10	00,	Stopped and continued the course north.
North	80	00,	Land and timber about the same quality.
	60	00,	To road and along with it.
	80	00,	To the right of the road, land the same kind, also timber.
	80	00,	Along the road.
	29	00,	Cross road N. E., set stake on the northern boundary of the tract—latitude corresponding with
	49	00,	observations and measurement found to be too much by $201\frac{55}{100}$ chains, to be taken off the southern portion of the tract. Distance between lat. 39° and 40° for 15 minutes is 17 miles, 19 chains and 40 l'ks.
71			August 21st, at Ophir on south side river—made sundry observations with sixtan and thodolite for latitude and variations, in connection with W. M. Eddy, esq., State surveyor gen'l for California.

The town of Ophir was found to be in lat. 39° 31′ 55 north, and I therefore measured north two miles 8 chains and 59 l'ks, to correspond with the beginning corner of the Flugge claim, viz: 39° 33′ 45″ north, and I planted a square post, marked lat. 39° 33′ 45″ N., and T. O. L., three feet in the ground on the bank river opposite Stony Point, from which post or monument a white oak, marked T. O. L., bears F. 87° W. 125 l'ks, and a pine tree near a miner's shanty, marked T., bears N. 46° O. 212 l'ks, and east end Table mountain bears N. 21° W., and the top of the point opposite at Stony Point bears S. 62° E.; from this mound I began and took the meanders of Feather river by course and distance, viz:

N. 23° E	8	00,	
N. 68° E	8	00,	Opposite stones to the left.
S. $55\frac{1}{2}$ E	23	00,	20 x mouth Morris ravine.
S. 75° E	27	00,	
S. 44° E	5	00,	
72 S. 83° E	20	00,	21 x mouth ravine, or bayo or gully.
S. $62\frac{1}{2}$° E	36	00,	
N. $55\frac{1}{2}$ E	24	00,	
S. $84\frac{1}{2}$ E	15	00,	13 x Oregon gulch, (at White rock.)
S. 60° E	22	00,	18 x gully.
S. 42° E	22	00,	8 x "
S. 58° E	58	00,	10 x " 25 x gully.
N. 70° E	31	00,	12 x "
N. $44\frac{1}{2}$ E	33	00,	8 x " 14 x 3 x gully.
N. 55° E	10	00,	8 x "
N. 16° E	14	00,	13 x "
N. $33\frac{1}{2}$ E	35	00,	12 v "
N. 40° E	36	00,	3 x opposite mouth middle fork.
N. $28\frac{1}{2}$ E	28	00,	
N. 35° W	43	00,	
N. 13 W	43	00,	

	N. 43 W.....	8	00,	White & Co's store at Potter's bar Co. fluming.
	N. 3° W.....	17	00,	1.00 and gully.
	N. 13½ W.....	11	00,	5 " " 8 x gully.
	N. 44° W.....	6	00,	
	N. 27½ W.....	21	00,	
	N. 5° W.....	16	00,	
	N. 24½ W.....	28	00,	26 x gully.
	N. 40° W.....	11	00,	5 x "
	N. 38° W.....	49	00,	
	N. 19° W.....	21	00,	
	N. 34° W.....	12	00,	
	N. 30° W....	53	00,	
73	N. 18° W....	48	00,	8 x gully 19 x gully x x gully.
	N. 9° W....	24	00,	
	N. 1° E.....	21	00,	5 x gully.
	N. 9° E.....	20	00,	
	N. 8½ E.....	18	00,	
	N. 9° W.....	25	00,	
	N. 19° W.....	23	00,	
	N. 26° W.....	21	00,	Opposite mouth north fork at Mugginsville.
	N. 19° W.....	21	00,	
	N. 47 W.....	13	00,	
	N. 70° W.....	22	00,	
	N. 49½ W.....	15	00,	
	N. 6° W.....	18	00,	
	N. 40° W.....	10	00,	
	N. 74½ W.....	22	00,	
	N. 25° W.....	24	00,	5 x gully.
	N. 55° W.....	23	00,	
	N. 67° W.....	18	00,	
	N. 8° W.....	37	00,	2 x.
	N. 26° W.....	22	00,	5 x.
	N. 60° W.....	25	00,	
	N. 18° W.....	5	00,	
	N. 36° W.....	47	00,	10 x.
	S. 71½ W.....	14	00,	
	N. 46½ W.....	24	00,	4 x.
	N. 77° W.....	13	00,	
	N. 48° W.....	9	00,	Opposite Nelson's bar, or West branch.
	N. 11° W.....	48	00,	Damning and fluming company.
	N. 13° W.....	26	00,	
	N. 20½ W....	17	00,	
74	N. 69½ W....	10	00,	
	N. 42½ W....	12	00,	
	N. 29½ W.....	15	00,	
	N. 31° E.....	15	00,	Cape Horn—very rough country.
	N. 35° W.....	13	00,	
	N. 2° W.....	15	00,	Opposite East branch, (mouth.)
	N. 12° W.....	8	00,	
	N. 13° W.....	33	00,	
	N. 9° E.....	19	00,	
	N. 19° E.....	16	00,	
	N. 5 W.....	21	00,	
	N. 8° E.....	28	00,	

N. 9° W.....	27	00,	
N. 17½ E.....	20	00,	
N. 7° W.....	29	00,	Chapparal—few pines.
N. 25½ E.....	14	00,	Very broken.
N. 3° E.....	23	00,	
N. 17° E.....	4	00,	
N. 28° W.....	14	00,	
N. 7° W.....	14	00,	
N. 10° E.....	15	00,	
N. 23½ E.....	30	00,	
N. 31½ W.....	15	00,	Chapparal—very broken.
N. 7° W.....	20	00,	
N. 35° E.....	23	00,	
N. 10° E.....	21	00,	
N. 21½ W.....	17	00,	
N. 2° W.....	18	00,	Marked a pine tree, 4, 12 inches diameter on the bank Feather river; no other tree convenient;
75			in a very deep cañon; current very swift; about 3 ch's wide, at present low water; water rises in rainy season 40 feet; this pine tree is the N.E. corner of the Flugge rancho, and I now run due west.
West.....	39	00,	x Road.
	47	00,	Marked a pine tree 6 India 4; marked a red oak tree 18 India L., 39° 48 45″ N., which which tree is ch's east of the road to the Butte sawmill.
	127	00,	Corner N.W. 1 of the rancho, near the bank of Butte creek, running S.W.; marked a spruce pine L., at 39° 48′ 45″ N., 50 inches wide, from which pine a red oak tree, marked T. O. L., bears S. 75° E.; 15 l'ks from corner after making the line by blazing the trees along the same, I ran the western boundary of the tract after making divers calculations and tabling so as to enable me to conform to the calls of the grant, &c.; from this spruce pine corner I run one south.
76 South.....	45	00,	Cross-road from Males to Butte creek sawmill.
	98	50,	Set stake from which a pine tree bears N. 50° W. 10 l'ks, and a pine, S. 53° E. 28 l'ks, marked T.
	178	50,	A post of manzanita, from which a red oak, T. O. L, N. 22° W. 30 l'ks, red oak tree T; S. 16° 27 lk's (note S. W. L. lat. N 1 per map ran east.)
East.....	64	00,	Cross dry creek, running south.
	92	00,	" road.
	120	00,	To river bank high strip bluff 250 feet high, rock mound from which pine tree marked T bears 11° W. 333 l'ks; land gently rolling; soil thin; pine and oak; pine of good size; from manzanita posts ran south.
South.....	80	00,	Set a stake from which a pine tree bears S. 40° E. 35 l'ks, marked 4; pine N. 45° E. 40.
	14	50,	Cross Spring branch.

	40	00,	Marked red oak ½.
77	80	00,	Stake N. 63° E.27 l'ks pine T; S: 62° E. 50; red oak.
East	38	00,	Cross Spring branch.
	40	00,	Marked red oak ½.
	66	00,	Cross creek.
	80	00,	Stake N. 16°, E. 25 l'ks, pine 4; S. 58°, W. 15, manzanita.
	13	50,	Cross road.
	33	82,	To a mound of rocks on the high bluff on river. No tree convenient. Land gently rolling. Pine and oak timber. Thin soil. From the SW., lot No. 2 ran—
South	40	00,	Marked a red oak ½.
	42	00,	Descend into open chapparal.
	80	00,	Erected a mound, stones.
	80	00,	" " "
	40	00,	Marked a pine tree, ½.
	67	30,	To the SW. corner lot No. 3, at a white oak, 8 in. dia., marked T. O. L., from which a white oak bears N. 65°, E. 53 l'ks; N. 6°, W. 163, w. oak 4; ran from SW. corner lot, No. 3, ran—
S. 40° E.....	43	00,	To the edge deep ravine—took angle across to other side.
	68	00,	Cross dry creek.
	80	00,	Set stake in hollow.
	10	00,	Cross a path at foot mountain.
78	20	00,	To top mountain level; on top took angle.
	46	00,	Descend across to other side.
	75	00,	Ascend another. Took angle.
	80	00,	Set stake. No trees.
	8	00,	Descend mountain, took angles to other side.
	21	00,	Ascend another level on top.
	33	00,	Descend mountain.
	35	00,	Cross road.
	80	00,	Set stake. No trees.
	80	00,	Set stake. Few trees scattering, rather broken and hilly.
	29	00,	Cross path.
	80	00,	Set marked a live oak, 1 M; broken; few oaks; scattering pine.
	2	00,	Cross path.
	10	00,	" dry gully, gold diggings.
	38	00,	Cross path.
	41	00,	" dry gully.
	59	00,	" road.
	77	00,	Set a stake at the SW. corner lot, No. 4, S. 43°, E. 51 l'ks; white oak, T. O. L., S. 68°, W. 25, at the head of Fairview valley. From this corner ran—
S. 11° E....	11	00,	Marked a white oak, west of the line 25 l'ks, L. W. continue S. 4° E.
79			
	3	00,	Opposite Ross' store and blacksmith's shop.
	80	00,	Marked a white oak, 3 M.

S. 11° E.....	29	00,	Cross road.
	37	00,	" path.
	40	00,	Set a stake opposite Glover's garden, Centreville.
	45	00,	Cross road.
	46	00,	" "
	80	00,	Set stake. No trees convenient.
	58	00,	Cross a path.
	80	00,	Set a stake. No trees convenient.
	36	00,	To quartz lead.
	71	00,	Cross road.
	80	00,	Established corner SW. lot, No. 5, per map, S. 8°, E. 45 l'ks, pin T. O. L.; S. 27°, W. 50, pin 4; thence ran—
S. 58° W.....	3	00,	Cross road.
	30	00,	" path.
	53	00,	" "
	63	00,	" Oregon gulch.
	64	00,	" road.
	80	00,	Set a stake on the side Table mountain.
	5	00,	Ascend Table mountain to top.
	38	00,	Descend Table mountain, took bearing across to South Table mountain, and the distance of triangulation, viz: 111 chains.
80			
	48	00,	Cross ravine.
	58	00,	" path.
	80	00,	Set stake.
	10	00,	Cross ravine, creek, and road.
	25	00,	Ascend South Table mountain.
	69	00,	To the top. Level on top.
	80	00,	Mound stones. No trees; continue course on lot; Table mountain S. 58° W.
	80	00,	To the edge mountain.
	27	00,	To foot mountain, established the SW. corner lot, No. 7 and the SW. corner of the tract; set a stake in the ground and marked a forked white oak 4, bearing S. 12°, E. 24 l'ks. No other tree convenient. Thence east.
East	155	50,	To the place of beginning on the right bank Feather river, along the foot of the South Table mountain; rolling surface; thinly timbered, oak and few pines. From the SW. corner lot, No. 3, per map, at white oak corner, ran—
81 East	17	00,	Descend bottom of dry creek.
	27	00,	Cross dry creek.
	41	00,	Ascend to the table land.
	70	00,	Cross path.
	123	00,	Cross road.
	124	00,	Descend hollow.
	139	00,	Ascend hollow and cross path.
	148	00,	To bank river, marked small pine, T. O. L. From the SW. corner lot, No. 4, ran—
East	36	00,	Cross Spring Valley branch.
	37	00,	" road.

	48	00,	Ascend quartz mountain.
	65	00,	Cross road on top "
	45	00,	To river bank at high bluff; marked a white oak tree, T. O. L. From SW. corner lot, No. 5, at corner No. 3, ran east to river.
	40	00,	To top of hill and descend.
	50	00,	Cross gully and ascend mountain.
	80	00,	Marked a forked white oak on the mountain side, I. M.
	20	00,	To top mountain and descend.
	80	00,	Marked pine tree, 4 2 M.
	11	00,	Corner on the river, after making some allowance for roughness for the surface, marked a pine tree, bearing from stake N. 7°, W. 103 l'ks, T. O. L. x live oak, 4 S. 33°, E. 50 l'ks. From corner No. 3, SW. 1 lot, No. 5, ran due south.
82 ·			
South	5	50,	Cross road.
	65	00,	" ravine.
	70	00,	" gully.
	75	00,	" "
	80	00,	Marked white oak tree x M.
	10	00,	Cross road.
	17	00,	" gully.
	40	00,	" Oregon gulch.
	80	00,	Marked white oak, 2 M.
South	13	00,	Cross road.
	47	00,	To river bank opposite Smith's bar, marked a holly tree corner, S. 68°, E. 10 l'ks, to a w. oak, and S. 51°, E. is the bearing of the flagstaff opposite side river, at Smith's bar.

NICHOLAS GRAY.

U. S. SURVEYOR GENERAL'S OFFICE,
Dec. 8, 1852.

The foregoing field-notes for the initiatory survey of Flugge's
83 rancho, Tho's O. Larkin, claimant, having been duly examined and found to be in conformity with the instructions of this office of the 21st of May, based upon the order of the board of land commissioners, dated May 1st, 1852, are hereby approved.

(Signed) SAM'L D. KING,
S'r Gen'l.

I certify that the foregoing is a true copy of the original notes of Flugge's ranch, Thos. O. Larkin, claimant.

SAM'L D. KING,
S'r Gen'l.

SAN FRANCISCO, *Dec.* 4, 1852.

Filed in office Dec'r 15, 1852.
(S'g'd) GEO. FISHER, *Sec'y.*

84 *Doc. H. J. T., No. 1, ann'd to dep. of W. D. M. Howard.*

Know all men by these presents that I, Charles W. Flugge, of the city of Angeles, in Upper California, in consideration of the sum of two thousand and eight hundred dollars to me in hand paid, the receipt whereof is hereby acknowledged, have this day, and do by these presents grant, bargain, sell, and convey unto Thomas O. Larkin, of Monterey, in California aforesaid, all and singular the following piece, parcel, and tract of land, to wit: a certain tract of land lying and being situate on the west side of Feather river, (a tributary of Sacramento,) in the certain of a certain tract of land called Boga, and described as follows: Commencing at the said river near latitude 39 deg. 33 min. and 45 seconds, north; running thence, in a westerly direction, one league from the said river; thence, in a northerly direction, five leagues up and parallel with the said river; thence, in a southerly direction, five leagues down and along the said river to the place of beginning, containing five square leagues of land as will more fully appear more fully by reference to the original title deed, made in due form of law and duly recorded at
85 Monterey, in California, in the Book of State, page 6, all of which will more fully appear by a reference to the said deed and record.

And I, the said Charles W. Flugge, do hereby further covenant and agree to and with the said Thomas O. Larkin to warrant and defend all and singular the said premises, together with all and singular the privileges and appurtenances thereunto in anywise appertaining or belonging unto him the said Thomas O. Larkin, against all legal claims and demands of all persons whomsoever.

In testimony whereof I, the said Charles W. Flugge, have hereunto set my hand and affixed my seal this twenty-first day of January, in the year of our Lord one thousand eight hundred and forty-seven.

C. W. FLUGGE. [SEAL.]

In the presence of—
DAVID W. ALEXANDER.
ABEL STEARNS.

Having received sufficient proof of the authenticity of this document is entered on record at this office the twelfth day of April, one thousand eight hundred and forty-seven.

WALTER COLTON,
86 *Alcalde of Monterey.*

WILLIAM R. GARNET,
Secretary.

Filed in office Feb'y 2, 1853.
(Signed) GEO. FISHER, *Sec'y.*

Affidavit.

U. S. land commission for California.

COUNTY OF SAN FRANCISCO.

THOMAS O. LARKIN, claimant for Flugge Ranch,
vs.
THE UNITED STATES. } Case No. 129.

Thomas O. Larkin, claimant in the above-entitled cause, being duly sworn, deposes and says that since the submission of the above cause, and within the last few days, he has discovered new evidence in the testimony of Henry McVicker, taken "de bene esse" before this commission and herewith presented, and which he is ad-
87 vised is material for him in this case.

And deponent further says that, to the best of his information and belief, the said Henry McVicker has been, for the last three or four years, an inhabitant of Mariposa county, State of California, which is distant from the residence of this deponent, and that this deponent was not aware until within a few days of the taking of the said testimony, and ever since the submission of this cause, that the said McVicker had ever been upon the land claimed herein, and only learned from him the facts stated in the said testimony in a casual conversation with him about Charles W. Flugge, the grantee herein.

And deponent further says that he desired to file the said testimony in this cause, and before this commission, as the said McVicker is not in good health, and has been most of the time, for the last three or four years, as this deponent is informed, under the care of a physician, and farther saith not.

THOMAS O. LARKIN.

Subscribed and sworn to before me this 24th of January, A. D. 1854.

THOMPSON CAMPBELL, *Com'r.*

88 Filed in office Jan. 24, 1854.
(Signed) GEO. FISHER, *Sec'y.*

Motion.

U. S. land commission for California.

THOMAS O. LARKIN, claimant for Flugge ranch,
vs.
THE UNITED STATES. } Case No. 129.

Before a full board, January 24, 1854.

Motion by claimant's counsel upon the affidavit of claimant, and the testimony of Henry McVicker, taken in this case, de benne esse, to open the above-submitted case, so far as to file the said testimony in this cause.

Filed in office Jan. 24, 1854.
(Signed) GEO. FISHER, *Sec'y.*

89 *J. P. L.—Exhibit to the dep. of N. Gray.*

OFFICE OF THE BOARD OF COMMISSIONERS OF CALIFORNIA LAND CLAIMS, *Saturday, May 1st*, 1852.

In case No. 129.—Thomas O. Larkin, at Flugge's rancho.

On motion of counsel for the claimant the following order was granted, to wit:

For the purpose of determining with precision and certainty the limits and boundaries of the land claimed by Thomas O. Larkin in his petition No. 129, pending before the commissioners, it is, on motion of the counsel for the claimant, ordered that an initiatory survey, under the superintendence of the United States surveyor general of California, be made of the lands known by the name of Flugge's ranch to the extent of "five sitios de ganado mayor," on the westerly side of Feather river, and stretching along the said river from 39° 33′ 45″ north latitude, 35° 41′ 45″ also of north latitude, as is represented in the plan accompanying the respective espediente, locating the said quantity of five sitios, according to the claim of said Larkin, and having reference to the sketch or plan annexed to the said espediente, but in such manner as to confine such location within the said limits and to include in the survey so to be made the
90 said quantity of five sitios.

But this order is not in any manner to determine as against the United States, either the question of title, the construction of the grant, the location, boundaries or extent of the land to which the claimant may be entitled.

I certify the foregoing to be a true copy of the original on file in this office.

May 1st, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Filed in office Jan'y 9, 1855.

(Signed) GEO. FISHER, *Sec'y.*

H. P. L.—Exhibit to the dep. of N. Gray.

OFFICE OF THE SURVEYOR GENERAL U. S.,
San Francisco, Cal., 21st May, 1852.

SIR: At the request of the parties interested you are hereby appointed to execute the preliminary survey of the tract called "Flugge's Ranch," claimed by Thomas O. Larkin, on Feather river, directed by the order of the board of land commissioners of the first
91 inst., of which a copy is enclosed.

Your survey, as a matter of course, will conform to the order of the board by commencing on the west bank of Feather river at a point where the same is intersected by the parallel of 39° 33′ 45″ north latitude, and running up and with said bank until the same is intersected by the parallel of 39° 48′ 45″, and running back as far

as may be necessary to embrace the area of five sitios, or 21,701$\frac{33}{100}$ acres.

You will therefore first accurately ascertain the points on the west bank of Feather river, where the before-mentioned parallels of latitude intersect the same, and having done so, you will proceed to accurately meander the bank of the river between those points; you will then calculate the course and length of each line, which would connect together the western projection of each bend of the river, and the area of each of those bends, as bounded by such calculated line.

This will give you the courses and lengths of the lines,
92 which, if run, would form a continuous line, connecting the upper and lower corners of the tract upon the river, and touching the extreme western part of each bend thereof, and also the area embraced by the bends east of such lines.

Having ascertained this area, it is to be deducted from the area of the grant, and the difference is to be obtained by running the back lines of the tract parallel to said connecting calculated front lines, and at such distances therefrom as will make the entire survey embrace the area called for by the grant and order, and give the tract as uniform a depth as practicable.

You will establish each corner and mark each line in the manner required, in excepting the public surveys, except that instead of making four posts and bearing trees with sectional numbers, you will designate each with the letters T. O. L., and number the corner posts in regular numerical order. Your field-book will be kept in the same manner, and furnish all the information required in performing public work, carefully noting the variation of the
93 needle, to ascertain which you should make frequent observations.

Your survey will be made with reference to the true meridian and by chains and links, and as your chain is not here you will have to present it with your notes, in order that it may be tested by the standard in this office; but before going out you should test its accuracy by the best means in your power.

You should be very particular in your running and calculations, so as to preclude necessity of a revision of the work in the field at any time hereafter.

Yourself and assistants will have to qualify in the same manner as if executing public work, and the evidence thereof returned with your notes.

The notes when returned will have to be accompanied by an accurately protracted map of the survey, on a scale of 40 chains to the inch, and also by your tabling, and by all other observations or calculations in detail having reference to the ascertainment of any of the lines or the area of the tract.

Before executing the survey you will, if advised of their be-
94 ing any interfering claimants, under alleged Spanish or Mexican title, to any part of the tract, notify them in writing of the time when you will be running any line in which they may be in-

terested, and you will make full and accurate entries in your field-book of any objections which may be made to any of the lines, and preserve and return to this office any protest or document which may be offered to you for that purpose.

You will also survey and return the notes of any lines which any opposing parties may contend to be the true lines of separation, and for which they may be willing to compensate you, and where any line is an agreed line that fact must be noted, and the manner in full of the persons consenting thereto.

Understanding that you have made an arrangement with the claimant as to your compensation, it will only be necessary for me to state that under no circumstances will this office be responsible for or compensate you for any service connected with the execution of this order.

Enclosed you have a copy of the original map or plan of the
95 tract as on file in this office, with the papers in the case, and also a copy of the general instructions in relation to executing the public surveys.

Very respectfully,

SAM'L D. KING,
S'r Gen'l.

Mr. NICHOLAS GRAY.

Filed in office Jan. 9, 1855.
(Signed) GEO. FISHER, *Sec'y.*

Brief of claimant.

To the Hon. board of U. S. land commissioners for California:

Thomas O. Larkin, your memorialist or petitioner, presents to your hon. board as claimant and owner in the case of land claims before your commission, numbered one hundred and twenty-nine, (129) which includes the documents belonging to a grant or tract of land known as the Boga or Flugge rancho, situated on the west bank of the Feather river (Rio de las Plumas,) Butte county, California, between the latitude north 39° 33′ 45″ and 39° 48′ 45″, containing five square leagues ("cinco sitios de ganado mayor;") five leagues on the river by one league in the rear.

96 The abstract of title and the evidence in the case being as follows, to wit:

Charles W. Flugge, memorial and petition to Gov. Manuel Micheltorena for a tract of land between lot north 39° 33′ 45″ and 39° 48′ 45″ on the Rio de las Plumas, Feather river, dated December 22, 1843, Monterey.

Governor Micheltorena requests information relating to the premises from his secretary, Manuel Jimeno, who makes request of John A. Sutter, commandante of the fortress, and alcalde of Sacramento valley, both report in favor of the petitioner, and that the land was vacant (valdio.) Dated December 31, 1843, January 4, 1844, February 20, 1844, February 21, 1844, Monterey, and January 27, 1844, Sacramento district.

Title, with conditions, issued to Charles W. Flugge, by governor of Alta California. Dated February 21, 1844, De los Angeles.

Flugge, petitioner to the "asamblea departmental" de Alta California, for a renewal and confirmation of his grant. Dated
97 May 23, 1845, Los Angeles.

The assembly refers the case to the committee of vacant lands, who report in favor of the petitioner, dated May 26, 1845, June 2, and June 13, 1845, Los Angeles.

The assembly confirms the governor's grant to Flugge, and issues the title of confirmation to him. Dated June 17, 1845, in the capital.

Flugge, the grantee, sells, grants and conveys the tract of land on rancho of five leagues to your petitioner, Thomas O. Larkin, for valuable consideration. Dated January 21, 1847, city of Los Angeles.

A. C. Whitcomb, as petitioner's attorney, presents the case with documents to your board, whom your petitioner was absent from this State. Dated March 24, 1852. San Francisco, California, U. S. surveyor general for California, Samuel D. King, by request of your board, reports the case from his archives to the board, and instructs Nicholas Gray, as his deputy, to survey the rancho according
98 to certain directions. Dated San Francisco.

Deputy Surveyor Gray and his sworn assistants complete the survey, and his reports, accompanied by a map and field-notes, are made to Mr. King, who approves of the same. Dated August 28, 1852, San Francisco.

Your petitioner's attorney submits the documents to your board, and retires from the same. Dated San Francisco.

Your petitioner requests the board to reopen the case to enable him to take further evidence that was previously unknown to his attorney. Dated January 24, 1854, San Francisco; motion granted to go to the foot of the docket. February 28, 1854.

Evidence of John Bidwell, January 4, 1853.

Proof of his knowledge of the rancho testimony was directed more to another rancho on the Sacramento river, called "Larkin's children rancho." (Mr. Bidwell made the maps for both ranchos in 1843
99 and 1844; evidence in case 129 immaterial and important, as he made the house in 1848.)

Evidence of W. D. M. Howard, February 2, 1853.

Proves the handwriting and signatures of Governors Micheltorena and Pico, and their secretaries, Manuel Jimeno and Juan Bandini; prove the signature of Flugge in the transfer of the grant to Larkin, and the signatures of Abel Stearns and David W. Alexander, subscribing witnesses to the same.

Evidence of H. L. Ford, Aug. 9, 1853.

Proves his personal knowledge of the land; saw it in 1845, 1846, and 1847; saw Sutter leave New Helvetia with Flugge for the

rancho to put him in possession ; saw a house on it at the latter part of 1847. Evidence only corroborates other evidence.

Evidence of David W. Alexander, August 12, 1853.

Proves the handwriting and signature of Charles W. Flugge, in his deed or title of the rancho to Thomas O. Larkin in
100 Jan'y 21, 1847, by his knowledge of Flugge's signature and his own; and the signature of Abel Stearns, subscribing witness to the deed, proves Flugge's death.

Evidence of H. McVicker, January 16, 1854.

Proves his knowledge of the rancho, and seeing Flugge on the same with a house, corral, and servant, and with cattle, horses, and mares, in 1844; also, same year saw some proof of cultivation thereon.

Evidence of Jacob P. Leese, 1854.

Proves handwriting and signature of Walter Colton, alcalde of Monterey, and his secretary, William R. Garner, on April 12, 1847, to the transfer of the grant from Flugge to Larkin.

Evidence of Alex. Gody, Oct. 12, 1854.

Proves his knowledge of the rancho, and being on it with Flugge in the winter of 1844 and 1845, when he saw as ervant, house, people, and cattle there.

Evidence of J. A. Sutter, Jan. 6, 1855.

101 Proves his knowledge of Flugges and the rancho in 1843 and 1844 ; sold Flugge horses and cattle to carry to the rancho in 1844 ; as alcalde of the district went over the land with Flugge, and gave him possession thereof; proves Flugge having the place from the fact of the climate being unhealthy to him; proves his official signature to the map in 1843 or 1844.

Evidence of Nicholas Gray, January.

Proves his instructions from Surveyor General King to survey the land ; proves his survey, map, and field-notes.

Soon after your petitioner returned from the Atlantic States to California, 1853, he found that his attorney, Mr. Whitcomb, had taken the evidence of such witnesses in the case as were brought to his knowledge from his limited acquaintance among old residents in the country. On perusal of this evidence by your petitioner, he deemed it insufficient for his case. He asked and obtained from your board the privilege of obtaining farther and more conclusive evidence, January 24 and February 28, 1854.

Your petitioner is of the opinion that the witness, Mr. Bid-
102 well, made a mistake in stating that Yates was in the house

he testified to, as there is reason to suppose that Yates wrongfully or by error located himself at another place and not on the rancho in question.

Character and business of Charles W. Flugge.

The original claimant and grantee, Charles W. Flugge, was a native of the kingdom of Hanover and a citizen of Mexico by naturalization, a person of a peculiar and sensitive mind, quite retired and of strict business habits, philosophical in his views and actions, which appear in certain unusual conditions in his grant from Micheltorena about the winter of 1844 and 1845. From ill health in Sacramento valley, and dissatisfaction in certain business transactions with Lieut. (now Col.) Frémont andhis party, he removed to Yerba Buena, now San Francisco, thence to Pueblo de Los Angeles, where he entered into commerce and re-established his health. Not being able to return to his rancho on account of the climate there and other causes, he, on the 21st January, 1847, in the Pueblo de Los
103 Angeles, sells—conveys—his rancho for a valuable consideration to your petitioner. In 1849 or 1850 he left California, returned about 1852, and died in or near the Pueblo de Los Angeles.

Position and business of Mr. Larkin.

Between 1845 and 1850 your memorialist was extensively and fully occupied in California as U. S. consul, naval agent, naval storekeeper, and other important government employ, (each employ not paying its respective expenses.) In 1846 and 1847 he was a prisoner of war; in 1851 he was engaged in the city of Washington settling his official accounts, he having hundreds of thousands of dollars of government stores at times in his charge, and having to erect storehouses for government uses, and being under heavy bonds and his different commissions, all prevented him at the proper time from attending to his rancho on Feather river. On his return to California from the United States the strange and anomalous state of the country, in the Sacramento and Feather river valleys, from the great influx of population to the placers, rendered it impossible to occupy his rancho,
104 and the state of the wild Indians and the robbers rendered it dangerous.

In the grant or tract of land embraced in case No. 129, now before your honorable board, your memorialist believes he has a valid, legal, and equitable right, which he founds on the proofs and documents he now submits to the board, as herein mentioned in brief, as well as to the documents at large, as proved by well-known and respectable persons of ten to twenty years' residence in California.

Charles W. Flugge, under the law of Mexico, was entitled, as a citizen of the republic, to eleven leagues of land, taken from any vacant public lands—"valdios." No one could take it from him except by a long and formal denouncement, which was never done or attempted. He had a right and power to convey and transfer his land, both by the laws of Mexico and of the United States.

Manuel Micheltorena, when governor of the department of Alta California, granted the land to Flugge. The assemblea depart-
105 mental of the country renewed his grant, and confirmed it to Flugge, who conveyed, granted, and transferred it as herein recited.

First condition of the grant.

The first condition of the grant, to infuse into the minds of the wild Indians on the rancho, confidence, sociability, civilization, and religious ideas of Catholicism, was unusual, unnecessary, and unnatural in a grant in California, and an impossibility from that period to the present.

Second condition.

Under the laws of the United States it is impossible to carry out the second condition, nor did the laws of Mexico compel it.

Third condition.

Commandante and Alcalde Sutter, of the Sacramento district, gave the juridical possession to the grantee, as far as his means and the time would allow.

The boundaries are well defined and marked out by the river, and the latitude as certified by Sutter on the map made by Mr.
106 Bidwell, one of which he made prior to the grant, the other afterwards.

The grantee resided on the rancho, had his house, servants, horses, cattle, and commenced cultivation thereon within a year from the date of the grant, which was not obligatory on his part by the letter or reading of said grant. This he left from ill health, and at a subsequent period conveyed the land to your petitioner.

The rancho has full and easily defined boundaries: on the eastern side the Feather river; on the western the public domain; on the northern and southern sides or ends, a certain and defined latitude.

Three sides being certain and immoveable, the five leagues, or "cinco sitios de ganado mayor," have been segregated with ease and certainty from the public domain.

Your petitioner purchased this land legally in good faith, with money that could have been better and (to him) more profitably expended. He has had it in charge eight years; has, at a heavy ex-
pense, had it surveyed under a U. S. deputy surveyor; has
107 each and every year paid State and county taxes on the land, and now respectfully submits the same to the consideration and attention of your honorable board for confirmation. And, as in duty bound, your petitioner will ever pray.

THOMAS O. LARKIN.

SAN FRANCISCO, *California, January* 9, 1855.

Filed in office January 9, 1855.
(S'g'd) GEO. FISHER, *Sec'y.*

Opinion of the board, delivered by Com'r S. B. Farwell.

THOMAS O. LARKIN *vs.* THE UNITED STATES. } 129. For a place called "Boga," situate in the county of Butte, containing five square leagues.

The claimant is this case has offered in evidence in support of his claim a traced copy of an espediente and map of Charles Flugge, which appears by proper certificate to be on file in the archives of State, in the office of the surveyor general of the United
108 States, and a grant issued in pursuance thereof, by Governor Micheltorena, on the 21st day of February, 1844. Also a deed of conveyance from the said Flugga, dated the 21st day of January, 1847.

The grant and deed aforesaid are properly authenticated, and the proofs are satisfactory as to the performance of the conditions, and the description given in the grant, together with the map that accompanies the espediente to which the grant refers, are such as to have no difficulty in locating the land.

We are of the opinion that this claim is valid, and a decree will be entered accordingly.

Filed in office July 17, 1855.
(Signed) GEO. FISHER, *Sec'y.*

Decree of confirmation.

THOMAS O. LARKIN *vs.* THE UNITED STATES. } 129.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the said petitioner is valid, and it is therefore decreed that his application for a confirmation thereof be allowed.

109 The land of which confirmation is hereby given is called "Boga," situate in the county of Butte, and contains five square leagues, and to be located in accordance with the calls of the grant, and the boundaries as delineated on the map accompanying the espediente to which reference is made.

The southern boundary line, indicated on the same map by the line marked 39 deg. 48 min. 45 sec's north latitude, being in the west side of Feather river, and to be of sufficient width to contain five square leagues.

R. AUG. THOMPSON,
S. B. FARWELL,
Commissioners.

Filed in office July 17, 1855.
(Signed) GEO. FISHER, *Sec'y.*

Order.

And it appearing to the satisfaction of this board that the land hereby adjudicated is situated in the northern district of California, it is hereby ordered that two transcripts of the proceedings, and of the decision in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the
110 secretary, one of which transcripts shall be filed with the clerk of the United States district court for the northern district of California, and the other be transmitted to the Attorney General of the United States.

Secretary's certificate.

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing ninety-three pages, numbered from 1 to 93, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings, and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses, upon which the same is founded, on file in this office, in case No. 129 on the docket of the said board, wherein Thomas O. Larkin is the claimant, against the United States, for the place known by the name of "Flugge's Rancho," or "Boga."

111 In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco,
[SEAL.] California, this tenth day of December, A. D. 1855, and of the independence of the United States of America the eighteth.

GEO. FISHER, *Sec'y.*

Endorsed : Filed December 24, 1855.

JOHN A. MONROE, *Clerk.*

Notice of appeal.

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
Washington, 11 *Feb.*, 1856.

129, "Flugge's rancho, or Boga." Thomas O Larkin, claimant.

You will please take notice that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 1st day of January, 1856, the appeal in the district court of the United States
112 for the northern district of California will be prosecuted by the United States.

C. CUSHING, *Attorney General.*

Endorsed : Filed April 4, 1856.

JOHN A. MONROE, *Clerk*,
By W. H. CHEVERS, *Deputy.*

933

Certified copy of decree of land com'rs.

THOMAS O. LARKIN
vs. } No. 129.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the said petitioner is valid, and it is therefore decreed that his application for a confirmation thereof be allowed.

The land of which confirmation is hereby given is called "Boga," situate in the county of Butte, and contains five square leagues, and to be located in accordance with the calls of the grant and the boundaries as delineated on the map accompanying the expediente to which reference is made. The southern boundary line indicated on
113 the said map by the line marked 39° 33′ 45″ north latitude, and the northern boundary by that marked 39° 48′ 45″ north latitude, being on the west side of Feather river, and to be of sufficient width to contain five square leagues.

R. AUG. THOMPSON,
S. B. FARWELL, *Commissioners.*

Endorsed: No. 129, Thomas O. Larkin. Boga. Decree of confirmation filed in office July 17th, 1855.

GEO. FISHER, *Sec'y.*

Recorded in 3 vol. of decisions, p. 143, Ex. D and G.

GEO. FISHER, *Sec'y.*

OFFICE OF THE SURVEYOR GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, John C. Hays, surveyor general of the United States for the State of California, and as such in my charge and custody the papers of the late board of U. S. commissioners to ascertain and settle the private land claims in California, do hereby certify the foregoing to be a true copy of a document filed in case No. 129 on the docket of said board, wherein Thomas O. Larkin is claimant against the
114 United States.

Given under my hand and official seal, at the city of San
[SEAL.] Francisco, Cal., this twenty-eighth day of November, A. D. 1856.

JOHN C. HAYS,
U. S. Sur. Gen. Cal.

UNITED STATES
v. } District court.—No. 358.
THOMAS O. LARKIN.

It being apparent that an error was committed in copying into the transcript of the record in this case the decree of the board of com-

missioners, it is agreed that the foregoing certified copy of said decree may now be filed in this case, correcting said error, and as true copy of said decree.

WM. BLANDING, *Dist. Att'y.*

Endorsed: Filed Feb'y 2, 1857.

JOHN A. MONROE, *Clerk,*
By W. H. CHEVERS, *Deputy.*

115 California Land Claims.

ATTORNEY GENERAL'S OFFICE,
24 *December*, 1856.

SIR: In the case of the claim of Thomas O. Larkin, confirmed to the claimant by the commissioners, case No. one hundred and twenty-nine, (129,) appeal will not be prosecuted by the United States.

I am, respectfully,

C. CUSHING.

WM. BLANDING, Esq.,
U. S. Att'y, San Francisco.

Stipulation.

In the district court of the United States, northern district of California.

THE UNITED STATES
v.
THOMAS O. LARKIN. } No. 358.—Tr. 129.

In pursuance of a notice from the Attorney General of the United States, hereunto annexed, it is hereby stipulated and agreed that the appeal heretofore taken in this case from the decision of the United States board of land commissioners, be dismissed, and that the notice of intention to prosecute said appeal, filed in this court by the Attorney General, be withdrawn, and that the claimant have leave
116 to proceed under the decree of the said land commissioners in his favor, as under final decree.

WM. BLANDING, *U. S. Att'y.*
THORNTON, WILLIAMS and THORNTON,
Att'ys for Claimant.

Endorsed: Filed Feb'ry 9, 1857.

JOHN A. MONROE, *Clerk,*
By W. H. CHEVERS, *Deputy.*

Order.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Monday, the ninth day of February, in the year of our Lord one thousand eight hundred and fifty-seven.

Present: The Hon. Ogden Hoffman, district judge.

THE UNITED STATES
v.
THOMAS O. LARKIN. } D. C. 358.—L. C. 129.

117 The Attorney General of the United States having given notice that no appeal will be further prosecuted in this case, and a stipulation having been entered into by the United States attorney for the dismissal of the appeal from the decision of the United States land commission, herewith rendered in favor of the claimant, on motion of the district attorney, it is ordered, adjudged, and decreed that the appeal pending in this court be dismissed, and that the claimant have leave to proceed under the decree of the said land commission heretofore rendered in his favor, as under final decree.

OGDEN HOFFMAN,
U. S. Dist. Judge.

Endorsed: Filed Feb'ry 9, 1857.

JOHN A. MONROE, *Clerk,*
By W. H. CHEVERS, *Deputy.*

Order to return survey, and allowing U. S. fifteen days to file exceptions.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-house in the city of San Francisco, on Monday, the seventh day of November, in the year of our Lord one thousand eight hundred and fifty-nine.

118 Present: The honorable Ogden Hoffman, district judge.

THE UNITED STATES
vs.
THOMAS O. LARKIN. } No. 358.—L. C. 129. "Flugge's rancho."

It being suggested to the court that the survey of the land claimed in this case, made under final decree, and approved by the U. S. surveyor general for California, is erroneous, on application of Tully R. Wise, esq., acting U. S. att'y, it is ordered that the said surveyor general return to this court a certified copy of the plat of said approved survey, and that the United States be allowed fifteen days from and after the return thereof to file exceptions thereto. And it is further ordered that a certified copy of this order be served upon the said surveyor general for his information.

Endorsed:

U. S. MARSHAL'S OFFICE,
San Francisco, Nov. 8th, 1859.

I have this day made personal service, by copy of this order, on J. W. Mandeville, the U. S. surveyor general for California.

P. L. SOLOMON,
U. S. Marshal.

119 Endorsed: Filed Nov. 7, 1859.

W. H. CHEVERS, *Clerk.*

(Here follows plat, page 119.)

119½ *Field-notes of the Boga rancho.*

No.	Course.	Dist.	No.	Course.	Dist.	No.	Course.	Dist.	No.	Course.	Dist.
1	S. 1¾ W..	5.50	37	S. 3° E..	3.00	73	N. 84¾ E..	7.50	109	S. 4 E..	28.00
2	S. 20 "	7.50	38	S. 61½ "	4.50	74	S. 45 "	16.50	110	S. 14½ "	13.80
3	S. 23 "	19.00	39	S. 47 "	7.00	75	S. 63½ W..	6.00	111	S. 49 W..	21.00
4	S. 38¼ "	8.80	40	S. 14 "	7.00	76	S. 22½ "	7.40	112	West	7.50
5	S. 71 "	21.00	41	S. 5½ E..	4.50	77	S. 69½ "	4.00	113	S. 33¾ W..	4.00
6	N. 73¾ "	22.50	42	S. 24½ "	9.50	78	S. 39 "	4.50	114	S. 12 E..	10.00
7	N. 87¾ "	8.00	43	S. 42½ "	9.50	79	S. 71½ "	6.30	115	South	6.50
8	S. 51 "	7.00	44	S. 53½ "	3.00	80	S. 79 "	16.00	116	S. 8 W..	10.00
9	S. 4 E..	21.00	45	S. 61½ "	24.50	81	S. 52½ "	2.00	117	S. 78½ "	10.00
10	S. 22 "	28.50	46	S. 59½ "	23.00	82	S. 32 "	8.60	118	S. 47 "	6.00
11	S. 41½ "	15.90	47	S. 49½ "	12.00	83	S. 87½ "	10.00	119	S. 27 "	5.00
12	S. 43 "	32.80	48	S. 45½ W..	8.00	84	S. 31½ "	1.60	120	S. 52½ "	26.00
13	S. 37½ "	15.00	49	S. 19½ "	9.50	85	S. 80 "	4.50	121	S. 24 E..	19.50
14	S. 65 "	24.00	50	S. 49 "	18.00	86	S. 16 "	5.00	122	S. 13¾ "	4.00
15	S. 44½ "	12.00	51	S. 78 "	23.00	87	South	20.50	123	S. 40 "	13.50
16	S. 13¼ "	31.00	52	S. 28¾ "	7.00	88	S. 9 E..	15.50	124	South	3.50
17	S. 1¾ "	11.00	53	S. 3 E..	5.00	89	S. 5 W..	19.50	125	S. 16¾ E..	16.00
18	S. 27 "	10.00	54	S. 25½ "	11.00	90	S. 12 "	9.00	126	S. 60 "	5.00
19	S. 35 "	5.50	55	S. 22½ "	6.00	91	S. 3 "	21.00	127	S. 47½ "	7.00
20	S. 52½ "	8.50	56	S. 8½ W..	11.60	92	S. 16½ E..	8.00	128	S. 64 "	8.00
21	S. ¾ W..	12.00	57	S. 6 E..	13.50	93	S. 5½ "	15.00	129	S. 84 "	14.30
22	S. 56¼ "	30.50	58	S. 16 "	3.80	94	S. 31¾ "	5.00	130	S. 51½ "	10.00
23	S. 35 "	3.50	59	S. 24½ "	9.50	95	S. 67 "	6.50	131	S. 32½ "	7.00
24	S. 1¾ E..	19.00	60	S. 13¾ "	13.00	96	S. 38½ "	5.00	132	S. 11½ "	8.00
25	S. 14 "	15.00	61	S. 39½ "	9.50	97	S. 65 "	4.00	133	S. 89½ W..	237.50
26	S. 38½ "	10.50	62	S. 65¾ "	13.00	98	S. 40 "	12.50	134	North	240.00
27	S. 60½ "	9.50	63	S. 61½ "	7.00	99	S. 13½ W..	22.70	135	S. 89½ W..	40.00
28	S. 38¾ "	11.80	64	S. 16 "	6.50	100	S. 36 E..	4.50	136	North	560.00
29	S. 52½ "	7.00	65	S. 10 "	6.50	101	S. 9½ "	6.00	137	S. 89½ W..	20.00
30	S. 30¼ "	10.00	66	S. 12½ W..	6.30	102	S. 2¾ "	7.00	138	North	40.00
31	S. 5½ "	19.50	67	S. 55 "	12.00	103	S. 47½ "	9.80	139	S. 89½ W..	19.30
32	S. 31½ W..	32.50	68	N. 76½ "	25.00	104	South	2.50	140	North	213.41
33	S. 12 "	10.50	69	S. 52 "	10.00	105	S. 55 E..	12.00	141	N. 89½ E..	232.10
34	S. 75 "	14.50	70	S. 23 "	9.00	106	N. 84 "	34.00			1,865.91
35	N. 82½ "	5.00	71	S. 24½ E..	19.40	107	S. 79 "	11.00			368.90
36	S. 70½ "	7.00	72	S. 55 "	25.00	108	S. 15 W..	18.00			395.60
		530.60			395.60			368.90			530.60
											3,161.01

Aggregate of exterior boundaries: 39 miles, 41 chains, 1 link.

U. S. SURVEYOR GENERAL'S OFFICE,
San Francisco, October 4, 1855.

The field-notes of the Boga Rancho, and from which this plat has been made out, have been examined and approved, and are on file in this office.

(Signed) J. W. MANDEVILLE,
U. S. Surv'r Gen'l, Cal'a.

U. S. SURVEYOR GENERAL'S OFFICE,
San Francisco, December 5, 1859.

120 I certify this to be a true copy of the original plat on file in this office of the official survey of the Boga Rancho, finally confirmed to Thos. O. Larkin.

In witness whereof, I have hereunto signed my name and caused the seal of this office to be affixed this fifth day of December, one thousand eight hundred and fifty-nine.

[SEAL.]

J. M. MANDEVILLE,
U. S. Surv'r Gen'l, Cal'a.

121 *Exceptions to survey by United States.*

U. S. district court.

THE UNITED STATES *vs.* THOMAS O. LARKIN. } No. 358.—L. C. 129.—"Flugge's Rancho," or "Boga."

And now come the United States, by their acting attorney, Tully R. Wise, and except to the official survey made of the land finally confirmed herein by the U. S. surveyor general for California unde final decree, a certified copy plat whereof was filed in this court, pursuant to its order, on Dec. 7, 1859.

And the United States aver:

1st. That the said survey is erroneous, because it locates the land confirmed outside the limits fixed by said final decree.

2nd. That the said survey is erroneous, because if the quantity of land granted and confirmed by ———, included within larger exterior boundaries, the said survey does not include certain portions of said land elected by the claimant, which election was determined by sales made by him during the pendency of his claim before the late board of land commissioners.

3rd. That the said survey is erroneous because four leagues of
122 the tract granted to Flugge was afterwards denounced by the brother, Fernandez, who obtained a grant therefor by denouncement from the Mexican government in 1846, filed their claim therefor before the board of U. S. land commissioners, by whom it was confirmed; also confirmed on appeal by the U. S. district court; further appeal dismissed by the United States. A survey made under final decree, and a patent from the U. S. duly issued upon said survey, which said four leagues, so surveyed and patented to Fernandez brothers, is a part of the same land confirmed to the claimant herein, and should have been included within his survey, whereas said survey of the lands confirmed herein excluded the said four leagues patented to Fernandez, and included five other leagues to the south, instead of including the said four leagues, and but one other league to the south to make up quantity.

4th. That the said survey is erroneous, because the said five leagues granted and confirmed were to be located within exterior boundaries containing a much greater area of land, the location of which five leagues was determined by the location of the Fer-
123 nandez grant as aforesaid; whereas the said survey includes land to the south which has been settled upon and occupied under the authority of the United States, and was so settled and occupied prior to the date of the making of said survey.

Wherefore the United States pray that the said survey be set aside as erroneous, and that the said surveyor general be ordered to cause a resurvey of said land to be made in conformity with the true intent and meaning of said final decree.

SAN FRANCISCO, *Dec.* 22, 1859.

TULLY R. WISE,
Acting U. S. Att'y.

Endorsed: Rec'd copy within this 22d day of Dec'r, 1859.
THORNTON, WILLIAMS and THORNTON.

Filed Dec. 22nd, 1859.
W. H. CHEVERS, *Clerk.*

Order allowing U. S. thirty days to close proofs, and cl'ts ten days thereafter to close proofs.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-house in the city of San Francisco, on Friday, the ninth day of March, in the year of our Lord one thousand eight hundred and sixty.

124 Present: The honorable M. Hall McAllister, circuit judge.

UNITED STATES *vs.* THOMAS O. LARKIN. } "Flugge, or Boga."—D. C. No. 358.—L. C. No. 129.

On motion of J. B. Crockett, attorney for the claimant, it is ordered that the United States have thirty days from this date within which to take and file their testimony in support of their exceptions to the survey returned into this court by the surveyor general in the above cause; and that the claimant have ten days thereafter within which to take and file rebutting testimony, and that the proofs be closed on the respective sides within the several periods aforesaid.

Endorsed: Filed March 9th, 1860.
W. H. CHEVERS, *Clerk.*

125 *Dep. of John Bidwell for U. S.*

United States district court, northern district of California.

THE UNITED STATES *vs.* THOMAS O. LARKIN. }

SAN FRANCISCO, *M'ch* 19, 1860.

On this day, before me, Jno. B. Williams, a commissioner of the United States for the districts of California, duly authorized to administer oaths, &c., &c., came John Bidwell, a witness produced on behalf of the United States in case No. 358, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 129 on the docket of the said board of commissioners, and was duly sworn and testified as follows, his evidence being given in English.

Present: Tully R. Wise, esq., acting U. S. att'y, and J. B. Crockett, esq., for claimant.

Questions by acting U. S. attorney.

Question 1. State your name, age, and residence.

Answer 1. John Bidwell; lawful age; residence, Butte county; have lived in Cal'a since 1841.

126 Question 2. Please examine the copies of the diseños in this case on file, and state whether you made that portion which was intended to apply to the petition of Flugge, and to which of the two does the grant refer?

Answer 2. I can't tell to which the grant refers. I first made one map for Mr. Flugge, and sent it to him; he wrote to me and requested me to make another, as he wished one to accompany his petition and to keep the other. In those days I always made two copies of the diseño, one to go into the archives and the other for the claimant to keep. I can't state which of that he did use for his petition, but I remember particularly of his requesting me to include the bottoms on Feather river, near the two rancherias.

Question 3. At the time you made these diseños for Flugge was it or not supposed that Sutter's northern line would be as is laid down on the same plot, and was not the land asked for by Flugge to extend from Sutter's northern line, as there laid down with respect to the natural objects delineated, more than with respect to any supposed line of latitude?

127 *Note.*—Counsel for claimant objects to this question as incompetent and irrelevant.

Answer 3. I supposed the parallel of latitude was correctly taken, and that the land would consequently conform as well to the one as to the other; that is to the degree of latitude as well as to the natural objects.

Question 4. Please examine the copy of the diseño accompanying the expediente and state whether the land designed to be petitioned for was not in quantity on the Feather river, as is shown between the two parallels of latitude, absolute so far as extent on Feather river is concerned, without regard to the parallels being accurate, except in their distance from each other?

Answer 4. It was intended to be five leagues on the Feather, which was supposed to run nearly north and south.

Question 5. Please state, as near as you can, the distance from the northern line of the Boga, marked 39° 48′ 45″, to the foot hills of the Sierra Nevada.

Answer 5. I intended, in putting his down, to begin at Sutter's northern line, as laid on Vioget's map, and run north on
128 the river five leagues. I have become acquainted with that country since, and would suppose it to be between three and four Spanish leagues; that is my judgment.

Question 6. Please state if, to your knowledge, the land delineated on the diseño was granted to Flugge; and if so, whether he occupied it, and how long.

Answer 6. He never occupied it himself. After Larkin bought it

he employed me to build a house upon it. He employed me in 1847, but I did not build it until 1848.

Question 7. What became of that tract of land afterwards?

Answer 7. It was sold to Thomas O. Larkin by Flugge.

Question 8. Are you acquainted with Thomas O. Larkin's handwriting? and if so, please state whether his signature to the exhibit now filed with your deposition, and marked A, is genuine.

Answer 8. The letter is not in his handwriting; the signature is, I think, his genuine signature.

129 Question 9. Please examine the traced copy of the espediente in case No. 109 in the land commission, and now marked Exhibit B, and state if the diseño therein is a copy of one originally made by you and for whom.

Answer 9. It was made by me. I made it at the request of Sutter for Fernandez.

Question 10. State whether the lands intended to be delineated by this diseño were intended by you to include the whole or any part of the land delineated by the diseño in the Flugge case; and whether you intended that Sutter's northern line should be identical on both diseños with reference to natural objects.

Answer 10. The Fernandez map was made by me in considerable haste; no respect was paid to Flugge's land, as he had not occupied it according to the conditions of his title. Sutter said his right to it had been forfeited. I intended to embrace the best lands on Feather river in the Fernandez diseño, and do not think I had particular reference to making it identical with Sutter's northern boundary.

I don't remember that I had any design to make the southern
130 boundary correspond with Sutter's northern boundary.

Question 11. Was it not your intention in delineating the Fernandez diseño to show the country between the foot hills and Sutter's northern line as vacant and capable of being granted, entirely disregarding the previous grant to Flugge, that grant at that time being considered void and about to be denounced by Fernandez?

(Counsel for claimant objects to the question, first as irrelevant, incompetent, leading, and as assuming facts not proven.)

Answer 11. I had no intention about it myself. I made it entirely at the request of Capt. Sutter. I knew it would conflict with Flugge's map. Captain Sutter was a justice of the peace, and he was the proper officer to certify as what were vacant lands when petitioners were referred to him by the governor asking for such information.

Question 12. Please examine the traced copy of the Fernandez grant from the surveyor general's office, marked Exhibit C to your deposition, and state any facts within your knowledge connected
131 with it.

Answer 12. I do not know anything except the making of the map until the country changed flags.

Cross-examination.

Question 1. What is the distance between the north line of the Fernandez claim, as exhibited on the map made by you, and the foot hills of the Sierra Nevada on the north?

Answer 1. The north line comes to the foot hills and perhaps goes a little into them.

Question 2. What is the distance between the said north line of the Fernandez map and the south line of the Flugge map, as shown by the said map?

Answer 2. I think it would be 8 or 9 leagues.

Question 3. In making the Fernandez map, under what instructions did you act and from whom?

Answer 3. I was requested by Capt. Sutter to make the map for Fernandez. I was at that time in Sutter's service. It was left to my judgment, and I was instructed by Sutter to embrace in
132 it the best land on Feather river. In making the map my object was to embrace the best land without regard to the Flugge or any other grant.

Question 4. In making the map for Flugge was it or not your purpose to make his southern line identical with Sutter's northern line?

Answer 4. It was.

Direct resumed.

In making the two diseños did you intend the two rancherias depicted on each, viz: the Ra. de Boga and the Ra. de Danker, to represent identically the same two rancherias?

Answer. I did.

Examination closed.

J. BIDWELL.

Sworn to and subscribed before me this 19 M'ch, 1860.

JNO. B. WILLIAMS,
U. S. Com'r.

Endorsed: Filed March 20, 1860.

W. H. CHEVERS, *Clerk.*

133 No. 1.

Exhibit A to dep. of Jno. Bidwell, for U. S.

SAN FRAN., 19*th June*, 1857.

D'R SIR: I have to thank you for your favor of the 6th inst., (rec'd yesterday,) though I do not know as I can give a satisfactory reply to your inquiry.

In 1852 Surveyor General King ordered a survey of my Feather river grant to be made, locating it between two lines of latitude described in the papers on file in the U. S. land com's'n. The survey was made by Dep. Surveyor Gray, who found the southern or lower line less than a mile above Thompson's flat. His survey was accepted and approved of by Mr. King, and filed with the other papers

in the case in the land com's'n. The case was confirmed by the com's'n'rs, and the U. S. dist. ct., and dismissed by the Att'y Gen'l. Learning that Surveyor Gen'l Hays thinks the grant should be located some miles below Thompson's flat, I have been taking counsel and filing briefs before him previous to making a formal request or demand for a final survey.

You will at once see that my opinion on the subject of the proper location of my grant goes for nothing, as the whole matter lies
134 with the surveyor gen'l. I am informed that govern't has surveyed the land below the grant of Messrs. Moore, Henshaw, and that persons have pre-empted or laid school land warrants on it. If this survey has been made by Col. Hays, and persons have taken up the land in accordance with it, it does appear unjust for the govern't to put my claim over them, whether I wish it or not. For some years I cheerfully paid taxes in your county, but latterly, under the State law declaring all lands not patented public lands, and on account of the general opinion that lands not segregated from the public lands could not be taxed, I have not paid.

I should prefer that there were no question concerning the location of the grant, that we might definitely judge of its value. I suppose, if the grant is to be entered at all in your county, it might be put down at $2 per acre.

Will you do me the favor to address me again with your views and opinion on the subject.

I am, with respect, your ob't serv't,

THOMAS O. LARKIN.

J. H. SELLARD, Esq., *Ass't, Butte Co.*

Endorsed: [Envelope.]

135 J. H. SELLARD, [SEAL.]
Assessor, Oroville, Butte County.

Filed March 20, 1860.

W. H. CHEVERS, *Clerk.*

Exhibit B to dep. of Jno. Bidwell, for U. S.

Certifico que el terreno que solicitan los S'ores Fernandez este valdio.

Nueva Halvecia, Mayo 1 de 1846.

J. A. SUTTER.

S'or jues de pas y comandante militar D'n Juan Agustin Suter: Mariano y Dionicio Zenon Fernandez nor por nacimiento y vecinos de Monterey y respetosamente nos presentamos y decimos q'e abiendo visto un terreno baldio en las inmediaciones de este establecimiento asia al norte y para la parte de la Sierra Nevada como consta por el diseño q'e acompaño de cuatro sitios de ganado mayor.

Pido se digne consedernos el informe para poder corres los tramites con el ex'mo s'or gobernador deste departamento.

Por tanto suplicamos se sirva excederlo q'e pedimos de lo
136 que recibiremos gracia y's.

Nueba Alvecia, 1o de Mallo de 1846.

MAXIMO ZERON FERNANDEZ.
DIONICIO ZERON FERNANDEZ.

YERBA BUENA,
Mayo 12 *de* 1846.

En vista de la presente, y sertificacion del encargado del establecim'to sobre el pedido de cuatro sitios de ganado mayor; por lo q'e solicito dos individuos q'e conocian el terreno y dieron los certificados q'e acompaño; pues no se prcaticaron como se debe pr. no haber autoridad por el rumbo pedido; pero los interesados obtienen los requisitos necesarios.

137 Por lo q'e posando al nr' for efecto del 2o. distrito resolverá lo q'e tenga á bien y le dará el fin q'e mejor le conbenge en uno uso de sus facultades.

FRAN'CO GUERRERO.

S'or subprefecto del 2o. distrito, Macsimo y Dionicio Zeon Fernandez, Mejicanos por nacimiento, y vecinos de Monterey: Ante V. con el debido respecto y como mas halla lugar, en derecho se presentan y dicen. Que habiendo visto un terreno baldio en las inmediaciones del establecimiento del Sacramento, asi al norte y para la parte de la Sierra Nevada. Y como d'ho terreno se halla en el partido de sumando, solicitamos lo informacion de U. acompañandole una representacion y diceño que hicimos al encargado de justicia de dicho establecimiento, del que obtubiemos una certificacion y para darle el giro que nos combienes pedimos se digne U. concedernos el informe que conbenga para que puedamos con toda inteligencia seguir los tramites correspondientes segun estilo.

P. T. A. V. suplicamos se cirvienceder lo pedido, de lo que se recibirá merced y gracia jurando lo necesario, &c.'a.

Yerba Buena, 8 de Mayo de 1846.

MACSIMO Y DIONICIO Z. FERNANDEZ.

Sirvase U. recibir la presente en papel comun por no haber del sellado que corresponde.

Yo el que abajo firmo digo, que en virtud de las averiguaciones practicados, y con los peritos correspondientes, y haciendo mencion de el parage que los Señores D. Macsimo y D. Dionicio Z'a Fernandez, solicitan en las inmediaciones del establecimiento del Sacramento. Certifico cer valdio y de que nunca ha tenido ni aun tiene tampoco dueño, ni acreedor de d'ho parage y para constancia, doy el presente escrito en Yerba Buena, el dia 15 de Mayo de 1846.

P. B. READINGS.

138 Yo el abajo firmado certifico que el parage de que hacen mencion los Señores Don Maximo y Don Dionisio Z. Fernandez se halla completamente valdio, y que hasta la presente no ha tenido dueño, ni ha sido pedido por persona alguna.

Y para que conste doy el presente hoy dia de la fecha.

Yerba Buena, Mayo 15, 1846.

GUILLERMO HINCKLEY.

139 (Here follows plat, page 139.)

140 PREFECTURA DEL SEGUNDO DISTRITO.

Sor. S'rio del Despacho: Don Dionicio y Maximo Fernandez solicitan en la presente instancia se les conceda en propiedad un terreno constante de cuatro sitios de ganado mayor que se halla en las inmediaciones del Rio del Sacramento para el Norte colindando con las lomas

bogas de la Sierra Nevada con el Rio de las Plumas y con el terreno de D'n Juan Aug. Sutter.

Esta pref'a en vista de los informes practicados que acreditan hallarse valdio dicho terreno y satisfecha que las pretendientes reunen las cualidades que previene la ley; no en cuentra embarazo p'a que el gob'no departamental les conceda la propiedad de los cuatro sitios de ganado mayor que piden y en tal virtud, los recomienda á V. S. para que poniendolo en el superior conocimiento del mismo, interponga sus respetos p'a que sean agraciados preferentemente á cua les quera estrangeros.

Monterey, Mayo 27 de 1846.

MAN'L CASTRO.

ANGELES, *Junio* 12 *de* 1846.

Vista la peticion con que dá principio.

141 (Endorsed:) No. 109. Dionisio Hernandez. C.—Espediente.

Filed in office March 19th, 1852.

GEO. FISHER, *Sec'y.*

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Mandeville, surveyor general of the United States for the State of California, and as such, having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican territory, or department of Upper California, as also the papers of the late board of commissioners to ascertain and settle the private land claims in California, by virtue of the power vested in me by law, do hereby certify that the eight preceding and hereunto annexed pages of tracing paper, numbered from one to eight, inclusive, exhibit a true, full, and correct copy of an original document, together with the endorsements thereon, as the same appears on file in case No. 109 on the docket of said board of commissioners.

[SEAL.] In testimony whereof, I have hereunto signed my name officially, and caused my seal of office to be affixed, at the city
142 of San Francisco, this 19th day of March, 1860.

J. W. MANDEVILLE,
U. S. Surveyor General for California.

(Endorsed:) Filed March 20, 1860.

W. H. CHEVERS, *Clerk.*

Exhibit C. to dep. of John Bidwell for U. S.

Pio Pico, gobernador constitucional del departamento de Californias:

[SEAL.] - Por cuanto los ciudadanos Mejicanos de nacimiento Macsimo y Dionicio Zenon Fernandez han pretendido para su beneficios personales un terreno baldio á las inmediaciones del Rio

del Sacramento colindante al norte con las faldas de la Sierra Nevada, al surcon terrenos de Don Juan A. Sutter y al este con el Rio de las Plumas; practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto de conformidad con la ley de 24 de Agosto de 1824 y reglamento de 21 de Noviembre de 1828, he venido en decreto de este dia en uso de las facultades que me estan
143 conferidas á nombre de la nacion Mejicana en concederles el espresado parage declarandoles la propiedad de el por las presentes letras á reserva de la aprobacion de lo ex'ma asamblea departamental y bajo las condiciones siguientes.

1a. Podran cercarlo sin perjudicar las travecias canimos y servidumbres lo disfrutaran libre y esclusivamente destinandolo al uso ó cultivo que mas les acomode.

2a. Solicitaran del juez respectivo les de la posecion juridica en virtud de este despacho por el cual se demarcaran los linderos con las mojoneras necesarias.

3a. El terreno de que se les hace donacion es puramente el de cuatro sitios de ganado mayor conforme el diseño que corre en el espediente. El juez que diere la posecion lo hara medir con arreglo á ordenanza dejando el sobrante que resulte á la nacion para los usos convenientes.

En consecuencia mando que teniendose el presente titulo por firme y valederose tome razon de el en el libro respectivo y se entregue á los interesados para su resguardo y demas fines. Dado en la ciudad de los Angeles en este papel comun por absoluta falta del sel-
144 lado á doce de Junio de mil ochocientos cuarenta y seis.

PIO PICO.
JOSÉ MATIAS MORENO,
S'rio Ynt'o.

Queda tomada razon de este superior despacho en el libro respectivo.
MORENO.

(Endorsed:) Titulo de propiedad del rancho concedido á los ciudadanos Macsimo y Dionicio Z. Fernandez.
Año de 1846.

Recorded in Rec. of Evid., vol. 18, p. 238 and 239.
GEO. FISHER, *Sec'y.*

No. 109.—Dionicio Z. Hernandez and al. 4 lea, Butte co.

B.—*Title.*

Filed in office March 19th, 1852.
GEO. FISHER, *Sec'y.*

Doc. B. ann'x'd to depo. of Thomas O. Larkin, taken before Comm'r Alpheus Felch.
GEO. FISHER.

145 OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Mandeville, surveyor general of the United States for the State of California, and as such, having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican territory, or department of Upper California, as also the papers of the late board of commissioners to ascertain and settle the private land claims in California, by virtue of the power vested in me by law, do hereby certify, that the three preceding and hereunto annexed pages of tracing paper, numbered from one to three, inclusive, exhibit a true, full, and correct copy of an original document, together with the endorsements thereon, as the same appears on file in case No. 109, on the docket of said board of commissioners.

In testimony whereof, I have hereunto signed my name offi-
[SEAL.] cially, and caused my seal of office to be affixed, at the city of San Francisco, this 19th day of March, 1860.

J. W. MANDEVILLE,
U. S. Surveyor General for California.

(Endorsed:) Filed March 20, 1860.

W. H. CHEVERS, *Clerk.*

146 *Translation of espediente and grant to Fernandez, filed by U. S.*

Pio Pico, constitutional governor of the department of the Californias:

[GOV'T SEAL.] Whereas, Macsimo and Dionisio Zenon Fernandez, Mexican citizens by birth, have solicited, for their personal benefit, a tract of unoccupied land in the vicinity of the river Sacramento, bounded on the north by the slopes of the Sierra Nevada; on the south by John A. Sutter's lands; and on the east by Feather river; and the required steps having been taken and information obtained concerning said land, in conformity with the provisions of the law of 18th Aug. 1824, and regulation of 21st November, 1828, I have resolved, by decree of this date, in the exercise of the powers in me vested, in the name of the Mexican people, to grant them (the said Macsimo and Dionisio Zenon Fernandez) the aforementioned tract; hereby declaring them proprietors thereof, subject to the approbation of the most excellent departmental assembly, and under the following conditions:

1st. They may enclose it without obstructing the crossings, roads, and rights of way; they shall enjoy the free and exclusive
147 possession thereof, dedicating it to the cultivation or use which they shall deem convenient.

2nd. They shall solicit of the proper judge the judicial possession thereof, in virtue of this patent, (despacho,) by whom (which) the limits will be marked out with the requisite landmarks.

3rd. The tract hereby granted is purely four square leagues of land, (suitable for the raising of cattle and horses,) (cuatro sitios de ganado mayor,) according to the plan accompanying the "espediente."

The judge who shall give possession shall cause it to be measured according to ordinance, leaving the surplus, which there may be, to the State for the proper purposes.

I therefore order that (inasmuch as) the present title being (is) held as firm and valid, (it) be entered in the corresponding book and delivered to the parties concerned for their security and other ends.

Given in the city of Angeles, (on common paper, for absolute want of the proper stamp,) the 12th day of June, 1846.

PIO PICO.
JOSÉ MATIAS MORENO,
Secretary pro. tem.

148 This superior patent has been entered in the corresponding book.

MORENO.

Translation from the original by Joseph H. Scull, state translator.

Endorsed: No. 109. Dionisio Fernandez *et al.*, 4 lea., Butte co. E.

Translation of title filed in office March 19th, 1852.
GEO. FISHER, *Sec'y.*

Recorded in record of evidence, vol. 19, page 225.
GEO. FISHER, *Sec'y.*

Translation of title and espediente, Rancho granted to Macsimo and Dionisio Z. Fernandez, 1846, by Pio Pico.

[Translation No. 1]

To the justice of the peace and military commandant, D. Juan Augusto Sutter:

I certify that the land solicited by the Messrs. Fernandez is vacant
149 NEW HELVETIA,
May 1st, 1846.
(Signed) J. A. SUITER.

Macsimo and Dionisio zenon Fernandez, Mexicans by birth, and citizens of Monterey, present ourselves with great respect and say, that having seen vacant land in the neighborhood of this establishment, towards the north and towards the Sierra Nevada, as will appear by the accompanying map of four sitios de ganado mayor, or four square leagues.

We respectfully ask for the necessary information to be transmitted to his excellency the governor of this department.

Wherefore, we pray that what we ask may be granted, by which we shall receive mercy.

New Helvetia, 1st May, 1846.

(Signed) MAXIMO ZENON FERNANDEZ.
(") DIONISIO ZENON FERNANDEZ.

Translation—No. 2.

YERBA BUENA, May 12th, 1846.

Having seen this document and testimony of the person in charge of the establishment in relation to the application for four square leagues, I have requested two persons who know the land, to inform me about the same, and they gave the annexed certificate.

The information has not been duly taken, on account of there not being an authority in that quarter; but the petitioners are qualified, therefore, I shall refer the matter to the prefect of the 2d district, who shall resolve as he may deem proper, and will give to the proceedings the convenient course by virtue of his powers.

(Signed)
FRAN'CO GUERRERO.

TO THE SUB PREFECT OF THE 2ND DISTRICT:

Maximo and Dionicio Zenon Fernandez, Mexicans by birth, and citizens of Monterey, respectfully appear and would state, that having seen a vacant tract of land in the neighborhood of the establishment of the Sacramento to the north, and by the side of the Sierra Nevada, and as said land is situted on a place under your jurisdiction, we solicit information of you relative to the land referred to in the accompanying petition and map—*map* which we have made to the person charged *ad interim* of the said establishment, from whom we obtained a certificate, and in order to give it the most convenient course, we beg of you to grant us the proper information, that we may duly proceed to corresponding proceedings as it is customary.

Therefore, we beg that your Hon. may be pleased to grant us what we have asked; by which we shall receive mercy and favor. I swear what is necessary, &c.

Yerba Buena, 8th May, 1846.

(Signed) MAXIMO Y DIONISIO Z. FERNANDEZ.

Please receive this document upon common paper, for there is none of the proper stamp.

151 [Translation No. 3.]

I, the undersigned, say that in virtue of the investigation and report made in relation to the land asked for by Messrs. Maximo and Dionisio Z Fernandez in the neighborhood of the establishment of the Sacramento. I certify that the same is vacant and has never been occupied, and that there is no owner of said place, in proof of which I give this writing, at Yerba Buena, May 15, 1846.

(Signed) P. B. READING.

[Translation No. 4.]

I, the undersigned certify that the place described by the Messrs. Maximo and Dionisio Z. Fernandez, is entirely vacant and without an owner, nor has it been asked for by any one.

In testimony whereof, I give this writing, the day of its date.

Yerba Buena, May 15th, 1846.

(Signed) GUILLERMO HINCKLEY.

[Translation No. 5.]

PREFECT OF THE 2D DISTRICT.

152 TO THE SECRETARY OF STATE: Don Dionisio and Maximo Fernandez, solicit by their documents the concession in owner-

ship of the four square leagues of land, in the neighborhood of the river Sacramento, bounded on the north by the low hills of the Sierra Nevada, by Feather river, and the lands of Don Juan A. Sutter.

This department of the prefect in view of the evidence that the said land is vacant, and that the applicants possess the legal qualications, can discover nothing which should prevent the governor of this department from granting the ownership of the said four square leagues. They are therefore recommended to your excellency, and with great respect would state that their petition should be granted in preference to any stranger.

Monterey, May 27, 1846.

(Signed) MANUEL CASTRO.

ANGELES, *June* 13*th*, 1846.

Having examined the petition which begins * * * * * * * * I certify the foregoing to be a true and correct translation from the original Spanish document on file in this office, in case No. 109.

DIONISIO Z. HERNANDEZ, *et al.*

153 U. S. Land Commission for California, San Francisco, July 26th, 1852.

GEO. FISHER, *Sec'y.*

(Endorsed:) No. 109, Dionisio Z. Hernandez, *et al.* E.—Translation of esped'te.

Filed in office July 26, 1852.

GEO. FISHER, *Sec'y.*

Recorded in Record of Evidence, vol. 19, page 223.

GEO. FISHER, *Sec'y.*

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *June* 23*rd*, 1854.

This day personally came before Peter Lott, a commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, John A. Sutter, a witness on behalf of the claimant, Dionisio Z. Fernandez, in case No. 109 on the docket of said board, and said witness, being duly sworn on oath, deposed, in English, as follows, to wit:

154 The U. S. law agent is present.

Questions by claimant's counsel.

1 question. What is your name, age, and residence?

Answer. My name is John A. Sutter; my age, 51 years; my residence, Sutter county, California.

2d question. Look at the document marked "C, expediente," and filed in this case, and state what you know of the genuineness of the various signatures thereon written, and your means of knowledge?

Answer. On the first page the signature of my own name to the

marginal certificate is my genuine signature, written by me at the date of the certificate. On the same page the signature of Dionisio Zenon Fernandez is his genuine signature. I know him, have received letters from him, and know his handwriting. On page No. 2 the name of Francisco Guerrero is his genuine signature. I know him and his handwriting, having frequently transacted business with him and seen him write. On page No. 3 the name of P. B. Reading is the genuine signature of Pearson B. Reading. He was my
155 secretary for about 2 years, and I know his writing well; have often seen him write. On page No. 4 the name of Guillermo Hinckley is the genuine signature of William Hinckley, (called in Spanish Guillermo.) I know his handwriting well, have seen him write, and have transacted business with him. Such other signatures as appear in this document I am not acquainted with.

Cross-examined by U. S. associate law agent.

1st question. Was your intercoure with these persons whose signatures you say you know, of so frequent a character as to enable you to testify without doubt as to those signatures, and without having your attention particularly directed to their writing at the time you saw them write?

Ans. Yes. I testify without any doubt; and my knowledge of these persons and their business, and my intercourse with them, make me very certain of their signatures.

2nd question. How often have you seen these persons write their names, or have you received letters from them?

156 Answer. So far as Hinckley and Guerrero are concerned I have very often seen them write and received letters from them. I cannot say how many times. Reading was my secretary 2 years, and the others, Fernandez, I have rec'd letters from not so often, but several times.

J. A. SUTTER.

Subscribed and sworn to before me on this 23rd day of June, A. D. 1854.

PERER LOTT,
Commissioner for taking testimony, &c.

Endorsed: No. 109, Dionisio Z. Fernandez, *et al.*, Butte county. Deposition of John A. Sutter, taken before Com'r Peter Lott.

Filed in office June 23rd, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 4, p. evid. p. 645.

GEO. FISHER, *Sec'y.*

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Mandeville, surveyor general of the United States
157 for the State of California, and as such having in my office,

and in my charge and custody, the papers of the late board of commissioners to ascertain and settle the private land claims in California, by virtue of the power vested in me by law, do hereby certify that the twelve preceding and hereunto annexed pages, numbered from one to twelve, inclusive, exhibit a true, full, and correct copy of three (3) documents, together with the endorsements thereon, as the same appear on file in case No. 109 on the docket of said board of commissioners.

In testimony whereof, I have hereunto signed my name officially, and caused my seal of office to be affixed, at the city San Francisco, this 19th day of March, 1860.

[SEAL.]

J. W. MANDEVILLE,
U. S. Surveyor General for California.

(Endorsed:) Filed March 20, 1860.

W. H. CHEVERS, *Clerk.*

158 *Dep. of Marc De Kirwan for U. S.*

United States district court, northern district of California.

THE UNITED STATES
vs.
THOMAS O. LARKIN.

SAN FRANCISCO, *March* 23, 1860.

On this day, before me, Jno. B. Williams, a commissioner of the United States for the districts of California, duly authorized to administer oaths, &c., &c., came Marc De Kirwan, a witness produced on behalf of the United States in case No. 258, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California in case No. 129 on the docket of the said board of commissioners, and was duly sworn and testified as follows :

Present: Tully R. Wise, esq., acting U. S. att'y; J. B. Crockett, esq., for claimant.

Questions by acting U. S. att'y.

Question 1. State your name, age, place of residence and occupation ?

Ans. My name is Marc de Kirwan; I live in Sutter county;
159 I am forty-three years of age; I am a farmer.

Examined by claimant's counsel on his voire dire.

Witness says : I live on the land embraced in the survey in controversy in this case. I claim under the certificate of the United States, given to me in the United States land office at Marysville, in March, 1856, against a school land warrant, or in exchange of a school land warrant which I had located on the same land since December, 1852. That is my only title. It is to my interest that the survey, in this case, should be defeated, if the certificate I have

mentioned cannot hold against it. I claim three hundred and twenty acres under my certificate.

Question. What is the value of the land you claim?

NOTE.—Objected to by U. S., because the controversy in this case is as to the location of the grant, and not the value of any portion of it.

Answer. It is hard to tell the value of the land.

Question. What do you estimate the land you claim there to be worth?

160 NOTE.—Objected to by U. S. as irrelevant.

Answer. Just as things stand now it may be worth four dollars an acre all round, exclusive of improvements.

Question. How much is it worth, including the improvements, in your opinion.

NOTE.—Counsel for U. S. objects to the question as irrelevant.

Answer. I suppose a couple of dollars more for every acre. Perhaps more. I was not prepared for these questions as I have no idea of selling the property.

Question. If the title was free from dispute, is not the land claimed by you, including the improvements, worth, in your opinion, as much as five thousand dollars; and if not, how much less than five thousand dollars?

NOTE.—Counsel for U. S. objects to question as irrelevant.

Answer. The value as stated already could certainly not be got now, because nobody would buy at any price; and as to stating the price it would be worth with a clear title to the land, it is

161 impossible for me to say. Circumstances are ruling markets everywhere. I cannot form an opinion on a thing I do not know beforehand.

Question. How much has your place cost you up to this time including the improvements?

NOTE.—Counsel for U. S. objects to the question as irrelevant?

Answer. I guess at from eight to ten thousand dollars is about the amount this property has cost me now.

Question. How much of that sum has been expended in the improvements?

NOTE.—Counsel for U. S. objects to the question as irrelevant?

Answer. I could not tell now without reference to my papers. Every day in the year almost there are expenses for building, fencing, &c., and perhaps the improvements cost me two thousand dollars. I do not know.

Question. You have said that some portion of the land claimed by you is worth twenty-five dollars per acre. How much of it is worth that price?

162 NOTE.—Counsel for U. S. objects to the question as irrelevant.

Answer. I cannot say, sir; I never looked over the ground so carefully as to be able to know just how many acres would be worth that. They are very few.

The examination of the witness on his *voire dire* having closed, the

counsel for claimant objects to the competency of the witness on the grounds of interest.

Question 2. When did you first go upon the land where you now reside, and which is now covered by the survey in this case?

Answer 2. I settled there in the end of October, 1852, having bought out some settlers who had possession of the land since 1849.

Question 3. State whether or not at that time you made any inquiries as to whether the land was covered by any Mexican grant, and what information you obtained on that point?

NOTE.—Counsel for claimant objects to the question as incompetent and heresay.

163 Answer 3. I made inquiries in the summer of 1852 in the land office here, (San Francisco,) and at Mr. Larkin's office, (Thomas O. Larkin's office,) in San Francisco, and I was told at both places that the Flugge grant was located above Hamilton city, on Feather river, and that this land appeared to be vacant land. I knew at the same time that another settler of the name of George Campbell had received of Mr. Larkin himself a similar answer. I did not learn it from Mr. Larkin himself, but from a gentleman who had his power of attorney at the time; Larkin being in the eastern States as I understood.

Question 4. After making the purchase as you have stated, did you or not take any steps to pre-empt, on your own account, the land covered by that purchase; and if so, what steps did you take?

NOTE.—Counsel for claimant objects to the question as incompetent and irrelevant.

Answer 4. In December, 1852, I located on that land through the county surveyor of Butte, a school land warrant of three hundred and twenty acres.

164 That location was recorded in Butte county clerk's office, in March, 1853. I believe then, in 1855, the land having been surveyed by the U. S. surveyor as public land, in April, I believe, I made a declaration in the U. S. land office in Benicia to cover that land with pre-emption claim rights. At that time there were some doubts in the public mind about the validity of school land warrants against pre emptors, and in order to secure myself against any squatter, I then made that declaration as a pre-emptor myself for such part of the land as my improvements were on. It stood so for a year. In March, 1856, official plats of the survey were returned in the United States land office of Marysville, by the surveyor general of California, that land declared then vacant land, and the United States register in that office took the school land warrant from me, and gave me in exchange a United States certificate giving me final title to that land. In 1858, the surveyor general of the State of California in his report to the governor, he states that the locations were final. I mean the location of mine, under certificate

165 No. 10. School land warrant one hundred and eleven was a final location in the United States land office. That land is the same that is now included in the Flugge survey.

Question 5. At the time you speak of was the Flugge ranch located

by the surveyor general of California; and does the plat now filed, marked Exhibit number 1 to your deposition certified to by the surveyor general of California, show its then location?

NOTE.—Counsel for claimant objects to the question as irrelevant and incompetent.

Answer. 5. At the time I received the United States certificate from the register in Marysville, (in April, 1856,) it was known in the county that the location of Flugge grant was to be made or was already made in the mountains about Oroville, on the Feather river. This plat shown me, Exhibit No. 1 on the spot marked yellow, number 62, shows the Boga or Flugge grant just as we understood the location was made.

NOTE.—Counsel for claimant objects to the answer as not responsive to the question and as hearsay.

166 Question 6. At the same period had there been any other grants located by the surveyor general between the Boga or Flugge ranch and your own land?

Ans. 6. Yes, sir; there was one, rather unexpected, located below that, from Hamilton city down to the northern line of my farm, under the name of Fernandez grant or rancho.

Question 7. Was the location of the Fernandez grant spoken of afterwards changed by the surveyor general, and how?

Answer 7. Yes, sir; it was changed and removed about six miles further north.

Question 8. Subsequent to that removal has there been any survey made by the surveyor general of the land in which you are included, and when was that survey made?

Answer 8. There have been different surveys below my place in township sixteen. Surveys had been already made in township seventeen, and finally in the last summer a deputy surveyor came on the ground, surveying it again for the purpose of locating
167 the same by a ranch that I have alluded to.

Question 9. Please examine Exhibit number 2 to your deposition, being a certified plat from the surveyor general's office, and state whether your location is correctly shown thereon, and the lines of the different ranchos before spoken of?

Answer 9. My location is right; the rest of it is correct, to the best of my knowledge. There is only a portion of the Fernandez ranch there.

Question 10. Had you any knowledge, direct or otherwise, prior to the survey made last summer of the Flugge rancho, that you were included in any Mexican grant?

Answer 10. No, sir; none at all.

The counsel for the United States here closed, and the counsel for claimant says he does not wish to cross-examine the witness. Wherefore this deposition closed.

M. DE KIRWAN.

Sworn to and subscribed before me this 23d M'ch, 1860.

JNO. B. WILLIAMS, *U. S. Com.*

168 (Endorsed :) Filed March 23, 1860.
W. H. CHEVERS, *Clerk.*

[Here follows Exhibits 1 and 2 to dep. of Kirwan.]

169 *Monition.*

UNITED STATES OF AMERICA,
Northern District of California :

The President of the United States of America to the
[SEAL.] Marshal of the United States for the northern district of California, greeting :

Whereas objection has been made to the official survey and location of the land finally confirmed, in case No. 358, to Thomas O. Larkin, known as Flugge Rancho, or Boga, and situated in the county of Butte, in said district :

Now, therefore, you are hereby commanded, in the name of the President of the United States of America, to give due notice to all parties having or claiming to have an interest in such survey and location, that they be and appear before the district court of the United States for said district, sitting in land cases, on or before Wednesday, the 3rd day of October, A. D. 1860, at 11 o'clock, a. m., (if that day shall be a day of jurisdiction, and if not, on or before the next Wednesday thereafter,) then and there to intervene for the protection of such interest, or their defaults will be taken. And what you shall have done under this writ do you then and there make return thereon.

170 Witness the Hon. Ogden Hoffman, judge of said court, at San Francisco, in said district, this 27th day of August, A. D. 1860.

W. H. CHEVERS, *Clerk.*

[Endorsed]

The within monition was received by me on Monday, the 27th day of August, 1860, and in obedience thereto I have given due notice as therein commanded, by causing the publication of said notice, for consecutive Wednesdays, in the San Francisco Herald, commencing on the 29th day of August, 1860, and for four consecutive Saturdays, in the Butte Democrat, a paper published nearest the land, commencing on the 1st day of September, 1860.

Dated San Francisco, Aug. 27th, 1860.

P. L. SOLOMON,
U. S. Marshal.

Returnable Oct. 3, 1860. Issued Aug. 27, 1860. Filed October 3, 1860.

W. H. CHEVERS, *Clerk.*

171 *Order on return of Monition.*

At a stated term of the district court of the United States of America for the northern district of California, held at the court

room in the city of San Francisco, on Wednesday, the third day of October, in the year of our Lord one thousand eight hundred and sixty.

Present, the honorable Ogden Hoffman, district judge.

THE UNITED STATES *v.* THOMAS O. LARKIN. } In land cases.—District court, No. 358.—Land com., No. 129.

And now at this day, the United States marshal having made return upon the monition heretofore issued in this cause, that he had given due notice as therein commanded, on motion of the attorney for the United States, proclamation was made that all parties having or claiming to have an interest in the survey and location of the land finally confirmed in the above entitled cause appear and intervene for the protection of such interest; the United States attorney and John B. Williams appeared for the United States, and Crockett and Crittenden for the claimants; and no other parties appearing,
172 whereupon it is ordered, that the default of all parties as aforesaid be and the same is hereby entered.

(Endorsed:) Filed October 3rd, 1860.

W. H. CHEVERS, *Clerk.*

Opinion rejecting survey.

United States district court northern district of California.

THE UNITED STATES, *vs.* T. O. LARKIN. }

Objections to survey on the part of the United States.

The rancho which has been surveyed was originally granted to one William Flugge, on the 21st February, 1844. The tract solicited is described in the petition as situated "on the west side of Feather river, and extending along the said river from north latitude 39° 33′ 45″ to the parallel 39° 46′ 45″, forming on this line a square one league in breadth, and called "Boga," as appears by the accompanying diseño.

173 On the 21st February, 1844, the governor, by his decree of concession, declared Flugge the owner of five square leagues on the western side of the Feather river, and in the centre of a tract called Boga. Its first boundary to be from the parallel of latitude 39° 33′ 45″ N. The formal title issued on the same day describes the land in a similar manner, and the fourth condition states it to be of the extent of five square leagues, as the respective diseño explains.

On the 13th June, 1845, the grant was approved by the departmental assembly; and on the 26th June, of the same year, a certificate of the approval was given to the grantee. The diseño which accompanies the petition was drawn by John Bidwell, and it represents the land solicited with unusual accuracy and certainty, a tract

on the west bank of the Feather river is delineated five leagues in length and one in breadth, as shown by the scale. At its southern extremity, a straight line marked "latitud, norte 39° 33′ 45,"" is drawn; while on the north, on the margin of the paper, the words latitud 39° 48′ 45″ are written.

174 It would seem from this description that the precise tract intended to be granted could be located with entire certainty. It is said, however, that the southern boundary of the land, as surveyed, is not the true parallel of latitude 39° 33′ 45″ which is much further to the north; and it is suggested that the land should be bounded on the south by that parallel, wherever the same on accurate observations be found to be.

It is not proved in this case where that line of latitude is in fact situated. I do not, however, understand it to be claimed that the land has been located with reference to it. With the imperfect instruments and inaccurate observations upon which the former inhabitants of the country were obliged to rely, it would be surprising if the latitude of any point had been determined with entire accuracy. But the diseño shows unmistakeably what was the situation of the line considered and called the parallel of north latitude 39° 33′ 45″.

175 It represents other ranchos lying below it on the river. Four Indian rancherias lying on the other side of the river, are also designated, two near the upper and two near the lower lines of the tract. Near the centre is represented an Indian village, called "Boga," from which the rancho derived its name, and what is still more unmistakeable, the Honcut creek is laid down as flowing into the Feather river, at a point somewhat to the south of the centre of the tract.

On comparing the course of the river as represented on the diseño, with its delineation on the returned plat of survey, it will be found to be laid down on the former with great accuracy. Almost every bend can readily be recognised and identified, and the portion of it along which the rancho was intended to be located can be determined with entire certainty. As then the situation of the southern boundary is thus determined by natural objects, it must be located with reference to them, notwithstanding that the grantor, by reason of imperfect observations or inaccurate calculations, may have made an error in designating it as a particular parallel of latitude.

176 If any authority be needed on a point so clear, it will be found in the case of U. S. *vs.* Sutter, where the Supreme Court disregarded a similarly erroneous designation of a parallel of latitude, and located the line by reference to natural objects and in accordance with the testimony showing where it was, in fact, run upon the ground.

It is further objected to the survey that the same land was afterwards granted to the brothers Fernandez. It appears that after the grant to Flugge, the brothers Fernandez applied to Sutter for a certificate to the effect that certain lands on the Feather river, north of Sutter's line and extending to the foot-hills of the Sierra Nevada, were vacant. Sutter supposing that Flugge had abandoned his grant,

directed Bidwell to make a map for the Fernandez', embracing the best lands on the west bank of Feather river. This Bidwell accordingly did, and the map was made so as to include a tract extending from what was supposed to be Sutter's north line to the foot-hills, and including the place called Boga, and all or the greater part of Flugge's land, together with lands to the north of the latter and extending to the foot-hills.

177 The claim of Fernandez has been confirmed, surveyed, and patented. It is located five leagues to the north of the northern line of Sutter, as now surveyed. The Larkin survey now under consideration, embraces these five leagues lying between the southern line of Fernandez and the northern line of Sutter. It is urged that inasmuch as the land delineated on the diseño of Fernandez includes the whole or the greater part of the tract granted to Flugge, and inasmuch as the grant of the former has been located on the northern part of the tract embraced within his diseño, Flugge's grant should be so located as to cover the same lands—it being apparent that the government has made two grants of the same lands—the first grant having been treated as abandoned.

This suggestion might possibly have been made with some force with regard to the location of Fernandez' grant. But the location of that grant has been finally made without the interposition of this court; the survey has been approved and the patent issued. The only question now to be considered is what lands were granted

178 to Flugge, nor can the location of his grant be affected by the circumstance that without any denouncement or even notice to him, his grant tho. confirmed by the departmental assembly, was treated as forfeited, and a portion of land embraced within the diseño of a tract granted to another.

The location of the Flugge rancho is fixed by the very terms of his grant and the delineation of the diseño, and nothing is necessary but to find the true situation of the line marked on the diseño, latitude norte, 39° 33′ 45″, and measure thence to the northward five leagues in length by one in width, along the Feather river.

It is further objected that Larkin, the claimant, has sought to locate his land further up the river than the present survey; that he has represented such a location to be that called for by the grant and claimed by him, and that various persons have made settlements on the southern portion of what is now embraced in the survey.

If under the grant and within the limits of the diseño, any election could have been exercised by Larkin, as to the precise loca-

179 tion of the quantity granted, he might possibly be found to make his election in accordance with previous representations, on the truth of which others have innocently relied. But whether or not such representations and claims would amount to an election so as to estop him from subsequently making any other, it is unnecessary to inquire, for his grant permits no right of election whatever. It designates, in terms, the "*first boundary*." The Feather river is the second. The petition and diseño show the width of the tract, viz: one league, and quantity will determine the northern

boundary. I am unable to perceive how, with so distinct a designation of the precise land, either Mr. Larkin or this court can exercise any discretion on the subject. The land granted, and none other must be surveyed, no matter what may be the wishes of the present owners, or what might have been the erroneous notions or representations of Mr. Larkin as to its location.

But in locating this line it appears to have been supposed that the northern line of Sutter's rancho was intended to be the southern line of the grant. It is true that Mr. Bidwell states that he meant
180 the tract on the diseño to have for its southern boundary the land of Sutter. But neither the petition or the grant make any mention whatever of Sutter's land. The position of the line which the grant declares to be the "first boundary," must either be determined by ascertaining where the true parallel 39° 33′ 45″ north, or by finding by natural objects the position of the line so marked, and which the grantor erroneously supposed to be the parallel mentioned. That the latter course must be adopted is clear. But on comparing the line as drawn on the diseño with the southern boundary of the land surveyed it is, I think, manifest that the tract has been located too far to the southward.

The Honcut creek, which is perhaps the most unmistakeable object delineated on the diseño, is represented on the latter as falling into the Feather river south of the centre of the tract, the part below the junction being considerably less in extent than that above it. But in the tract surveyed the junction of these streams is considerably above the centre of the tract, leaving much the larger portion of the land below it again.

The bends of the river below the point of junction are laid
181 down on the diseño with much accuracy, and can be recognised and identified on the plot, tho' the latter is on a much larger scale. It can readily be seen by comparing the two at what point on the river the southern boundary of the diseño was run. And its position can further be ascertained by reference to the rancherias Honcut and Bubu, which are noted on the diseño as to the north of it, and the rancheria Tonescha, which is represented as lying to the south of and not within the tract solicited. It would seem that the most southern of these rancherias has been included in the survey. But the more reliable indication is the course of the river. By tracing its course from the junction of the streams in both maps it will be found that the southern line of the survey is not drawn at the bend where the line of latitude is drawn on the diseño, but considerably below it.

This I consider clearly erroneous. It would seem that the surveyor has taken the southern line of the Fernandez rancho for his point of beginning and surveyed south for quantity, whereas the grant explicitly directs that the Southern line marked on the
182 diseño 39° 33′ 45″ shall be the "first boundary," but makes no mention whatever of a northern boundary. If, by commencing as the grant directs, the five leagues should embrace any portion of the land patented to Fernandez, it is a result naturally to

be expected when a second grantee asks for and obtains land already granted to another. He may esteem himself for (if Flugge's be the better title) that within the limits of his diseño was included a tract sufficiently large to allow his four leagues to be located in great part without interfering with Flugge, and that he has been allowed so to locate it or to cover the remainder of the tract. But it cannot be claimed that in order to give Fernandez his whole four leagues the Flugge grant is to be pushed further down the river than the point so explicitly referred to in the grant, plainly delineated the diseño as its southern boundary.

It has already been said that neither the grant nor the petition in any way mention the land of Sutter, or his supposed northern line, as forming the southern boundary of the tract.

183 The parallel of latitude mentioned in Sutter's grant as his northern boundary is 39° 41′ 45″ N., while the parallel mentioned in this grant as its southern boundary is 39° 83′ 45″. This last cannot therefore have been designated in this grant on the supposition that it formed the northern line of Sutter. But even if the parallel on this diseño were the same as that designated in Sutter's grant as his northern boundary it would merely show that the draughtsman supposed that Suter's line would be identical with the line drawn on this diseño as the southern boundary. Whether it be so or not cannot now be determined. The position of the line marked on this diseño with the figures 39° 33′ 45″ is absolutely fixed by unmistakeable natural objects, nor can it be moved further south so as to coincide with Sutter's northern line as since surveyed, merely because the two might have been supposed to be identical.

But on referring to the diseño of Sutter we find the northern boundary delineated by a parallel of latitude marked 39° 32′ 45″. His grant, as we have seen, describes it as the parallel 39° 41′ 45″ north latitude. But the line itself, as shown by the natural

184 objects with reference to which it is drawn, corresponds exactly with that drawn on Flugge's diseño as his southern boundary. It crosses the river, like the latter, to the north of the mountains called the Tres Picos, and at about the same distance above the mouth of the Yuba river, which is laid down on both maps. It thus appears that altho' the supposed northern line of Sutter was probably the same as the southern line of Flugge, both were fixed by natural objects, and Flugge's line must, on the theory of the claimants, be made to correspond with what is delineated on both diseños as their common boundary, and not with Sutter's northern line as it may have been since fixed by surveys by the U. S. Whether it has been correctly located, or whether it has been drawn more to the south in obedience to other calls in his grant, or because to reach it would exceed the quantity granted, we cannot now determine. But its final location cannot affect its supposed and intended location with reference to which alone Flugge's grant was made.

185 It is stated by the counsel for the settlers that when the original location of this tract was made, in accordance with Larkin's wishes and representations, far to the north of and so

as not to include the tract now surveyed, the survey was approved both by the surveyor general and the authorities at Washington, and all that portion of the present survey below Honcut creek was sectionized and offered for entry as vacant public land. Relying upon the action of the government and the representations of Larkin, various persons located school land warrants and pre-emption claims upon it. When the land had been officially surveyed as vacant public land the warrants were surrendered to the register of the land office and certificates issued to the holders.

After all these proceedings were had, the authorities at Washington, after examining, it would seem for the first time, the location that had been made, determined to rescind their approval, and a new survey was ordered, which is now before the court.

The precise tract of land along the Feather river which was granted to Flugge is so clearly indicated on the diseño that it is
186 difficult to imagine how the first survey, which was on a part of the river far to the north of any portion of it, drawn on the diseño could have been for a moment acquiesced in. What was Mr. Larkin's motive for asking for such a location we can only conjecture. The pretext on which it was claimed was that the land was to be measured from the parallel mentioned wherever on accurate observations it should be found to run, and this, notwithstanding that the tract would thus be located on a totally different part of the river from that so clearly indicated on the diseño. To illustrate how far the first location procured by Larkin was from the tract delineated on the diseño it is enough to say that the southern boundary was more that six leagues from the mouth of the Honcut creek, which his diseño represents as falling into the Feather river considerably to the south of the centre of the tract.

It is much to be regretted that by omitting to examine into and correctly determine the true location of this grant, and by treat-
187 ing the first and utterly inadmissible survey as proper, and offering for pre-emption lands on the south of the survey as vacant public lands of the government, has induced innocent parties to settle upon and improve at great expense lands which are now found, and the government itself asserts, to be within the grant.

However much I may regret the hardship and the injustice to which these settlers are to be subjected, I am unable to afford them a remedy. My duty is to locate the land granted to Flugge, and that location is so plainly indicated by the terms of the grant and the delineation on the diseño that no discretion whatever is left to me.

The present survey must be set aside and a new survey made, commencing at the southern line, as indicated on the diseño by the natural objects thereon represented, and running thence northward along the river five leagues. The width of the tract so lying along the river to be one league.

Endorsed: Filed March 16, 1861.

W. H. CHEVERS, *Clerk.*

188 *Petition for rehearing and to take further testimony.*

In the district court of the United States for the northern district of California.

THE UNITED STATES
v.
THOMAS O. LARKIN. } No. 358.—"Boga."

To the Hon. Ogden Hoffman, judge of the district court of the United States for the northern district of California:

The petition of the United States by their attorney, William H. Sharp, respectfully shows:

That the above-entitled cause is now pending in said district court under the act of June 14, 1860; that the said cause came regularly to a hearing upon exceptions duly filed by the United States to the survey of the land confirmed; that on March 16, 1861, the opinion of the court was filed, by which an order was directed to be entered rejecting the survey and ordering a new one to be made in accordance with said opinion, and that said order has not yet been entered.

That a new survey in accordance with said opinion would
189 give but partial relief to the United States, and through them to the settlers who appear by their counsel in aid of the U. S. attorney, as provided by said law.

Your petitioners therefore pray for a rehearing in said cause, upon the following grounds.

1st. That new and important evidence has come to the knowledge of your petitioners since the trial and submission of said cause, with reference to the actual location of the northern line of the land granted to John A. Sutter, which northern line is the southern line of the land granted in this case, and which is improperly located on the rejected survey by the line known as the Third Standard North.

2nd. That the opinion of the court fixes said northern line of Sutter and the southern line of the land confirmed in this case at about one league north of said line known as Third Standard North, whereas by the proof recently discovered said line should be about eighteen miles north from the junction of the Feather and Yuba rivers, about fourteen north from the line known as Third Standard North, and about eleven miles north from the line indicated by the said
190 opinion rejecting the survey.

3rd. That your petitioners expect to prove by the maps in the Sutter case known as B. P. L. and A. P. L., by the grant made to John A. Sutter in 1841 by Governor Alvarado, and by the testimony of John Bidwell, who prepared the original diseño in this case, and who was in the employ of said Sutter at the time, the location of the northern line of the land granted to Sutter as aforesaid, and known as "Lindero Latitud Norte 39° 41′ 45," and that said line was the southern line of the land petitioned for and granted in this case.

Wherefore your petitioners, by their attorney aforesaid, pray that your honor certify this petition.

WM. H. SHARP, *U. S. Att'y.*

963

Northern District of Cal'a, ss:

John B. Williams, of said district, being duly sworn, on oath says that he is the attorney employed by the settlers occupying portions of the land surveyed to the claimant in this case, and that he
191 is informed and believes that the proof mentioned in the foregoing petition is within reach of the process of the court, and can be produced if the cause is reheard.

JNO. B. WILLIAMS,

Subscribed and sworn to before me this 2d day of Dec., A. D. 1861.

W. H. CHEVERS,
U. S. Comm'r.

Leave is given to U. S. to move for a rehearing as above solicited.

OGDEN HOFFMAN,
U. S. Dist. Judge.

Endorsed: Filed Dec. 4, 1861.

W. H. CHEVERS, *Clerk.*

Order opening cause for further testimony.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Wednesday the 26 day of February, in the year of our Lord one thousand eight hundred and sixty-two.

Present: The honorable Ogden Hoffman, district judge.

THE UNITED STATES
vs.
192 THOMAS O. LARKIN. } No. 358.

This cause came on to be heard upon the motion for a rehearing made by the United States, in accordance with their petition filed in the cause, Dec. 4, 1861; and counsel for the respective parties having been heard, and due deliberation had in the premises, it is ordered that the said cause be, and hereby is, opened for further testimony on behalf of the United States, and for rebutting testimony on behalf of the claimant; such testimony to be subject to all legal exceptions as to relevancy, competency, &c.

OGDEN HOFFMAN,
U. S. Dist. Judge.

Endorsed: February 26, 1862.

W. H. CHEVERS, *Clerk.*

Stipulation admitting Exhibits U. S. 1, 2, 3, 4, 5, 6.

U. S. district court.

THE UNITED STATES
v.
THOMAS O. LARKIN. } No. 358.

193 SAN FRANCISCO, *May 5th*, 1862.

It is hereby stipulated and agreed that Exhibits U. S. Nos. 1, 2, 3, 4, 5 and 6 are true and correct copies from the record in the case of the United States *vs.* John A. Sutter, claiming New Helvetia, on file in this court in case No. 319; and they are hereby admitted in this case with all the force and effect they have in said case, No. 319, subject to all objections as to relevancy.

CROCKETT and CRITTENDEN,
Att'ys for Claimant.

Endorsed: Filed May 5, 1862.

W. H. CHEVERS, *Clerk.*

Exhibit U. S. No. 1.—*Expediente of John A. Sutter, for New Helvetia.*

Stamp 3rd, two reals.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of the Californias, for the years eighteen hundred and forty and eighteen hundred and forty-one.

JIMENO.
ANTONIO MARIA OSIO.

[CUSTOM-HOUSE SEAL.]

To his excellency the governor of this department:

John Augustus Sutter, a native of the Swiss republic, natur-
194 alized in the Mexican republic, and at present settled in this department, before the notorious justice of your excellency, with due respect says, that since his arrival to this country, wishing to cultivate a portion of the many existing tracts of vacant land, obtained your excellency's superior approval for the purpose to settle himself on the land which he now occupies, associated w th some industrious families who were willing to follow him, and as an assiduous labour already promises flattering expectations to his settlement, individually, and advantages to the department in general, considering that the good example of those who follow him has already awakened similar ideas in the other inhabitants of the country, at the same time, this settlement, from its position, proves to be a strong barrier against the incursions of the savage Indian tribes into the villages; and as a school of civilization, either to the wild natives or to those under the care of the missions, who during the long time they have been submitted have not been useful members of

195 society, as your petitioner at this time has the satisfaction that they are, which is due to his indefatigable exertions. For all these reasons he finds himself under the necessity of enlarging his enterprise by establishing twelve families, and to solicit the kindness of your excellency that you may be pleased to grant him eleven leagues of land in his establishment called "La New Helvetia," (New Helvetia,) situated towards the north, according to the land represented in the sketch which he has the honor to present to your excellency. The land which is periodically overflown in winter it not comprised in the aforesaid eleven leagues. Your petitioner protests to your excellency and to the Mexican nation that he shall keep faithful the laws of colonization in force, and all those about the matter. Therefore he supplicates your excellency that, exercising the power vested in you, you will be pleased to grant him his petition, and to interfere, at the same time, your powerful influence before the supreme government of the nation, that its superior approbation may be obtained. Your petitioner will receive a fa-
196 vor and benefit, and the country will improve its agriculture.
Monterey, June 15th, 1841.

Excellent sir,

JOHN A. SUTTER.

Whereas Don Augusto Sutter, a native of the Swis republic and naturalized in the Mexican nation, has solicited, according to the law of 18th August, 1824, and the ordinance of the 21st November, 1828, for his personal benefit and that of twelve families, eleven leagues of land on the borders of the river Sacramento, in the vacant lands of the northern frontier, in order to colonize and foster them, for which end he has sufficiently proved his assiduity, good behavior, and all other qualities required in those cases. Having already anticipated his increased efforts, his constant firmness, and his truly patriotic zeal in favor of our institutions, having reduced to submission a number of savage Indians, born in those frontiers, and this government being sufficiently informed that the mentioned land does not belong to the property of any private individual, town or cor-
197 poration, and that in consequence thereof it is specified in the aforesaid laws, and in conformity with the power conferred on me, in the name of the Mexican nation I have granted to the said Señor Don Augusto Sutter, by these present letters, for him and his settlers, the said land called La Nueva Elvecia, (New Helvetia,) subject to the approval or disapproval of the supreme government and of the excellent departmental assembly, under the following conditions:

1st. He may fence it, without injury to the crossings, roads, and servitudes, and above all to the trade and navigation of the rivers.

2nd. He shall maintain the native Indians of the different tribes on those places in the free enjoyment of their possessions without troubling them, and he may only reduce them to civilization through prudent measures and a friendly intercourse; he shall not cause them

hostilities of any kind without previously obtaining authority from government.

3rd. The land of which donation is made to him is of the
198 extent of eleven sitios de ganado mayor, (eleven square leagues,) as exhibited in the sketch annexed to the proceedings, without including the lands overflown by the swelling and current of the rivers. It is bounded on the north by *los tres picos*, (the three summits,) and the 39° 41′ 45″ north latitude; on the east by the borders of the "Rio de las Plumas," (Feather river;) on the south by the parallel of 38° 49′ 32″ of north latitude, and on the west by the river Sacramento.

4th. When this property shall be confirmed unto him, he shall petition the proper judge to give him the possession of the land, in order that it may be measured agreeably to ordinance, the surplus thereof remaining for the benefit of the nation for convenient purposes.

Therefore I order that this title, being held as firm and valid, the same be entered in the proper book, and that these proceedings be transmitted to the exc't the departmental assembly.

Thus I, John B. Alvarado, commandant general of the department of the Californias, have ordered and signed, to which I
199 certify.

Monterey, June 18th, 1841.

E. C.
R. S.

Endorsed: Filed May 5, 1862.

W. H. CHEVERS, *Clerk.*

Exhibit U. S. No. 2.—Grant from Alvarado to John A. Sutter.

Stamp 1st, six dollars.

Provisionally authorized by the maritime custom-house of Monterey for the years 1839 and 1840.

ALVARADO.
ANTONIO MA. OSIO.

Valid for the years 1841 and 1842.

ALVARADO.
ANTONIO MA. OSIO.

[SEAL.] Juan B. Alvarado, constitutional governor of the department of the Californias.

Whereas D'n Augusto Sutter, a native of the Swiss republic and naturalized in the Mexican nation, has solicited, according to the law of 18th of August, 1824, and the ordinance of 21st of November, 1828, for his personal benefit and that of twelve families, eleven leagues of land on the borders of the river Sacramento, in the vacant lands of the northern frontier, in order to colonize and foster
200 them, as required in said regulations, for which end he has sufficiently proved his assiduity, good behavior, and all other

qualities required in these cases; having already anticipated his great efforts, his constant firmness, and his truly patriotic zeal in favour of our institutions, having reduced to submission a number of savage Indians, born in these frontiers; and this government being sufficiently informed that the mentioned land does not belong to the property of any private individual, town, or corporation, and that in consequence thereof it is specified in the aforesaid laws; and in conformity with the powers conferred on me, in the name of the Mexican nation, I have granted to the said Señor Don Augusto Sutter, by these presents, for him and his settlers the said land called *La Nueva Helvecia*, (New Helvetia,) subject to the approval or disapproval of the supreme government and of the most excellent departmental assembly, under the following conditions:

1st. He may fence, it without injury to the crossings, roads,
201 and servitudes, and above all to the trade and navigation of the rivers.

2nd. He shall maintain the Indians of the different tribes on those places in the free enjoyment of their possessions without troubling them, and he may only reduce them to colonization through prudent measures and a friendly intercourse—he shall not cause them hostilites of any kind without previously obtaining authority from government.

3rd. The land of which donation is made to him is of the extent of eleven sitios de ganado mayor, eleven square leagues, as exhibited in the sketch annexed to the espediente, without including the lands overflowed by the swelling and current of the rivers. It is bounded on the north by (Los Tres Picos,) the three summits, and the 39° 41′ 45″ north latitude; on the east by the borders of the (Rio de las Plumas,) Feather river; on the south by the parallel of 38° 49′ 32″ of north latitude, and on the west by the river Sacramento.

4th. When this property is confirmed unto him, he shall
202 petition the proper judge to give him the possession of the land, in order that it may be measured agreeably to ordinance, the surplus thereof remaining for the benefit of the nation for convenient purposes.

Therefore I order that this title, being held firm and valid, the same be entered in the respective book, and that it be delivered to the party interested for his security and other purposes.

Given in Monterey, on the eighteenth day of June, eighteen hundred and forty-one.

JUAN B. ALVARADO.
MANUEL JIMENO, *Sec'y.*

Endorsed: Filed May 5, 1862.

W. H. CHEVERS, *Clerk.*

Exhibit U. S. No. 3.—*Grant from Micheltorena to John A. Sutter.*

Manuel Micheltorena, brigadier general of the Mexican army, adjutant gen'l of the staff, governor general-in-chief, and inspector gen'l of the department of the Californias:

Whereas Don Juan Augustus Sutter, a Mexican naturalized
203 citizen, and his son John A. Sutter, have solicited for the personal benefit of themselves and family the surplus of land within his rancho, named New Helvetia, as laid down in the map which accompanies the grant, and the usual investigations and inquiries in relation thereto required by law and regulations having been complied with, by virtue of the authority conferred upon me, in the name of the Mexican nation, and for the good conduct and services which the said Sutter has rendered and is rendering at the present time, I have conceded to them the mentioned land, declaring in them the ownership thereof by these presents, subject to the approval of the most exc't the assembly department under the following conditions :

1st. They may enclose it, without interfering with the paths, roads and servitudes. They shall enjoy it exclusively and freely, appropriating it to the uses of cultivation which suits their convenience.

2nd. They can request the proper *juez* that he give them lawful possession by virtue of this decree, so that the boundaries may
204 be defined, at the limits of which there may be placed, besides the landmarks, some fruit trees, or useful kind of forest trees.

3rd. The land of which mention is made consists of twenty-two square leagues, described upon the map which accompanies the grant.

4th. The *juez* who gives the possession shall have the land surveyed according to law, remaining the surplus that may result at the disposal of the nation for its convenient uses.

5th. Therefore I command that these presents, investing the title in them, and holding the same as firm and valid, shall be handed in for record in the proper book, and shall be delivered to the parties in interest for their security and other purposes.

Executed on this ordinary paper, having no stamped paper appropriate.

Santa Barbara, February 5th, 1845.

MANUEL MICHELTORENA.
205 JUAN CASTANEDA,
Sec'y ad interim.

Endorsed : Filed May 5, 1862.

W. H. CHEVERS, *Clerk.*

Exhibit U. S. No. 4.—Lease from Sutter to Cordua and Flugge.

This agreement, made this thirteenth day of January, in the year eighteen hundred and forty-three, by and between Capt. John A. Sutter, proprietor of Nueva Helvetia, of the first part, and Theodor Cordua, of Mecklenburg Schwerin, and Chas. W. Flugge, of Hanover of the second part, witnesseth : that the said Capt. John A. Sutter, the said party of the said first part, has this day leased and to farm let, and by these presents does lease and to farm let, unto the said Theodor Cordua and Chas. W. Flugge, the said party of the said second part, a certain piece or tract of land included in Captain John A. Sutter's territory, granted to him from and by the government of California, situate in Upper California, and bounded and described

as follows: Southwardly by a small stream emptying into
206 Feather river, and called Jubu or Jupu river, from the rancheria now and at present opposite to its mouth—the same rancheria being called Jubu or Jupu rancheria; westwardly by Feather river, and northwardly by a certain line forming Capt. John A. Sutter's northern boundary; in short, that tract of land which, from the Jubu or Jupu river, draws towards the northern and northeastern mountains, and which is owned by Capt. John A. Sutter, for the time and period of nine years from this date.

And the said Capt. John A. Sutter, for himself, his heirs, executors, administrators or assigns, does hereby covenant and agree with the said Theodor Cordua and Charles W. Flugge, the said party of the said second part, to renew, after the expiration of the above mentioned nine years, this lease for the then next following nine years—that is, from the thirteenth day of January, of the year eighteen hundred and fifty-two, to the thirteenth day of January, in the year eighteen hundred and sixty-one; and the said Theodor Cordua and Charles W. Flugge do hereby covenant and agree with the
207 said Capt. John A. Sutter to leave all improvements then and before the expiration of the said period of the mentioned eighteen years, built on the above mentioned and described premises; also the houses, out-houses, etc., to the disposal of the said Capt. John A. Sutter, or to his heirs, executors, administrators or assigns, and to give up quiet and peaceable possession of the said premises to him, the said Capt. John A. Sutter, or to his heirs, administrators or assigns, in case the said Capt. John A. Sutter should, at the expiration of the above period, wish to dispose of the above premises in a different manner, and therefore demand possession of the same. For all the improvements left on the above premises the said Theodor Cordua and Charles W. Flugge are entitled to no remuneration.

In testimony of the above the said parties have hereunto set their names and seals the day and year above written.

J. A. SUTTER.
THEODOR CORDUA. [SEAL.]
CHARLES W. FLUGGE. [SEAL.]

I, Charles W. Flugge, a party of the second part mentioned
208 in the above agreement, do by these presents give up all my right, title, interest and claim, which I until now have had to the premises therein described, and transfer the same to Mr. Theodor Cordua, of Mecklenburg Schwerin, the other party of the second part mentioned in the above agreement.

In testimony thereof I have hereunto set my name and seal this twenty-fifth day of May, in the year eighteen hundred and forty three.

C. W. FLUGGE,

Witness:
JOHN SINCLAIR.

I, Theodor Cordua, do by these presents give up all my right, title, interest and claim, which I until now have had to premises

therein described, and transfer the same to Messrs. Wm. Foster, ——— Nye and Charles Covilland.

In testimony thereof I have hereunto set my name and seal this day.

New Mecklenburg, 23d January, 1849.

TH. CORDUA. [SEAL.]

Witnesses:

JAMES B. LEWIS.

M. ATKINSON.

209 OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Mandeville, surveyor general of the United States for the State of California, and as such having in my office and in my charge and custody the papers of the late board of commissioners to ascertain and settle the private land claims in California, by virtue of the power vested in me by law, do hereby certify that the four preceding and hereunto annexed pages, numbered from one to four, inclusive, exhibit a true, full and correct copy of an original document marked Doc. No. 1, annexed to the deposition of John A. Sutter, and file in case No. 248 on the docket of the board of land commissioners aforesaid, together with the indorsement thereon, as the same now appears on file among the archives of said board in my office and in my charge and custody.

In testimony whereof I have hereunto signed my name officially and caused my seal of office to be affixed at the city of San Francisco, this first day of December, 1860.

J. W. MANDEVILLE,
U. S. Surveyor General for California.

210 Examined and found correct.

R. C. HOPKINS,
Keeper of Archives.

Endorsed: Filed May 5, 1862.

W. H. CHEVERS, *Clerk.*

Exhibit U. S. No. 5.—Deed from Sutter to Covilland et al.

This indenture, made the eighteenth day of January, in the year one thousand eight hundred and fifty, between John A. Sutter, captain, of Hock Farm, California, party of the first part, and Charles Covilland, José Manuel Ramirez, Theodore Sicard, and John Sampson, of Jubaville, parties of the second part, witnesseth, that the said party of the first part, for and in consideration of the sum of ten thousand dollars, lawful money of the United States of America, to him in hand paid by the said parties of the second part, at or before the ensealing and the delivery of these presents, the receipt whereof is hereby acknowledged, hath granted, bargained, sold, aliened, remised, released, conveyed and confirmed, and by
211 these presents doth grant, bargain, sell, alien, remise, release,

convey and confirm, unto the said parties of the second part, and to their heirs and assigns forever, all that certain piece or tract of land included in the territory granted to the party of the first part by the government of California, and bounded and described as follows: Southwardly by a small stream emptying into Feather river, called Juba river; westwardly by Feather river, and northwardly by a line forming the northern boundary of the property of the party of the first part, which line is in latitude thirty-nine degrees thirty-three minutes and forty-five seconds, and which line commences at Feather river, at the rancheria of Honcut, and extend to the lands of Theodore Cordua's ranch; eastwardly by a straight line running from the lands of said Cordua's ranch at right angles to the above-mentioned northwardly line to the Juba river; together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and also all the estate, right, title, interest, property,
212 possession, claim and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in, or to the above described premises, and every part and parcel thereof, with the appurtenances, unto the said parties of the second part, their heirs and assigns forever; and the said party of the first part and his heirs, the said premises, in the quiet and peaceable possession of the said parties of the second part, their heirs and assigns, against the said party of the first part, his heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same, shall and will warrant and by these presents forever defend.

In witness whereof, the said party of the first part hath hereunto set his hand and seal the day and year first above written.

J. A. SUTTER. [SEAL.]

Sealed and delivered in the presence of S. B. Colby, J. W. Wadleigh, Stephen J. Field.

STATE OF CALIFORNIA,
Sacramento District, Town of Jubaville, ss:

On this nineteenth day of January, one thousand eight hun-
213 dred and fifty, personally appeared before me John A. Sutter, known to me to be the person described in and who executed the within deed, acknowledged that he executed the same for the purposes therein mentioned, and that the same was his free act and deed.

STEPHEN J. FIELD,
First Alcalde of Yubaville.

STATE OF CALIFORNIA,
County of Yuba, ss:

On this twenty-first day of January, A. D. one thousand eight hundred and fifty-six, personally appeared before me, a notary public in and for Yuba county, John A. Sutter, personally known to me to

be the individual described in, and who executed the within conveyance, and who acknowledged to me that he executed the same freely and voluntarily for the uses and purposes therein mentioned.

In witness whereof, I hereunto set my hand and seal of office the day and year in this certificate above written.

[SEAL.] E. DUPRE,
Notary public in and for Yuba county, California.

Received for record January 22nd, 1856, at three o'clock and thirty-five minutes p. m., at request of J. M. Ramirez. Recorded January 23, 1856, at eleven o'clock and twenty minutes a. m.
214 D. C. BENHAM, *Recorder.*
By G. M. ODELL, *Deputy.*

I, W. H. Wickersham, recorder of Yuba county, hereby certify that the foregoing is a full, true, and correct copy of a deed, with the certificates of acknowledgment now of record in my office, in deed book No. 10, on pages 262 and 263 of the records of Yuba county.

Witness my hand and official seal this 28th day of November, A. D. 1860.

W. H. WICKERSHAM,
Recorder Yuba county, California.

Endorsed: Filed May 5, 1862.
W. H. CHEVERS, *Clerk.*

Exhibit U. S. No. 6.—Deed from Sutter to Robinson, Fowler et al.

Whereas I, John A. Sutter, of Hock Farm, Sutter county, State of California, party of the first part, have been for many years in possession of all that tract or body of land situate and lying, and being in the State of California, and within the following boundaries, to wit: commencing on the north by the three peaks, or what is commonly called Sutter's buttes, at a point on the east bank of
216 Sacramento river, in latitude 39° 41′ 45,″ thence running with the parallel of said latitude to the "Rio de las Plumas," or Feather river, thence down and along the meanders of said "Rio de las Plumas," or Feather river, to its junction with Sacramento river, thence up and along the eastern bank of said Sacramento river to the place or point of beginning, and which said land embraced in a grant from the Mexican government bearing date Monterey, 18th day of June, eighteen hundred and forty-one.

And whereas, notwithstanding his possession of said land and his grant thereof, various persons have from time to time intruded thereon, and are continuing to do so, and taking possession of various portions thereof and *asserting* a claim thereto to the great annoyance and injury of the said John A. Sutter; and whereas the said John A. Sutter is anxious to be released from the trouble, expense, and vexation of maintaining his lawful right to the land aforesaid, and whereas Henry E. Robinson, John S. Fowler, Eugene F. Gillespie,

and John McDougal, parties of the second part, are willing to
216 accept his said title and to assume upon themselves the labor, expense, and trouble of maintaining the lawful right and title of the said John A. Sutter to the aforesaid tract of land, of preserving and securing it against all intruders and all persons whatsoever; and whereas, as a further consideration of this conveyance, the said parties of the second part agree and hereby bind themselves to pay over to the said John A. Sutter one-sixth part of the nett proceeds of the said tract or parcel of land aforesaid (with the reservation hereafter to be stated) when and as the same may be from time to time sold, and whereas, also, Ann Sutter, the wife of said John A. Sutter, is willing to become a party to this conveyance, and by it relinquishes all the right, title, and interest in and to the said tract or parcel of land before described expressly upon the condition, and none other, that the said parties of the second part shall convey to her, the said Ann Sutter, such title as they may acquire by this deed to her sole, separate and exclusive use forever all that portion
217 of the said tract or parcel of land known as "Hock Farm," lying and being on Feather river, and fronting on the west side thereof, running the distance of six miles along and on said river, and four miles back therefrom, &c., &c., a more full description of which will appear by a reference to a deed this day executed to her, the said Ann Sutter, by the parties of the second part; and whereas the said parties of the second part, in further consideration for this deed, have also agreed to pay at or before the sealing and delivery of this deed the sum of six thousand dollars, the receipt by the said John A. Sutter is hereby acknowledged: Now this indenture witnesseth, that for and in consideration of the premises above mentioned, I, John A. Sutter and Ann Sutter, his wife, of "Hock Farm," Sutter county, State of California, of the one part, have granted, bargained, sold, aliened, remised, released, and confirmed, and by these presents do fully and absolutely grant, bargain, sell, alien, remise, release, and confirm unto Henry E. Robinson, John S. Fowler, Eugene F. Gillespie, and John McDougall, parties of the
218 second part, and their heirs and assigns forever, all that tract or lot of land as heretofore described, being the same as granted by the Mexican government bearing date on the 18th day June, eighteen hundred and forty-one, lying on Feather and Sacramento rivers, together with all and singular the hereditaments and appurtenances to the said tract or parcel of land and premises belonging and in anywise appertaining, together with all the stock, utensils, and other things belonging on said tract or parcel of land, and the remision and remisions, remainder and remainders, rents, issues, and profits thereof, and of every part and parcel thereof, and also all the estate, right, title, and interest, property, possession, claim, and demand whatsoever of the said parties of the first part, and each of them, of and in and to the same or any part or parcel thereof, and the said John A. Sutter and Ann, his wife, do hereby convey, grant, and assign unto the parties of the second part whatever right, title, and interest they may have in any part other tracts or parcels

of land which they might have or possess in the State of
219 California. But the said John A. Sutter excepts and reserves from this conveyance such parts and parcels of land as has been granted or sold heretofore by him, and for which he has executed his deeds, which were for valuable considerations, and which has been paid to him, and which deeds have been duly and properly recorded.

To have and to hold the said tract or parcel of land and premises, and all interests in other lands hereby conveyed, with all their rights, members, and appurtenances, unto the said party of the second part, their heirs and assigns forever, to the only proper use and behoof of the parties of the second part, their heirs and assigns forever.

In testimony whereof, the said parties of the first part and parties of the second part have hereto set their hands and affixed their seals, on this first day of July, in the year of our Lord one thousand eight hundred and fifty.

JOHN A. SUTTER.	[SEAL.]
A. SUTTER, *né* DUBLED.	["]
HENRY E. ROBINSON.	["]
JOHN S. FOWLER.	["]
EUGENE F. GILLESPIE.	["]
JOHN McDOUGALL.	["]

220 Signed, sealed, and delivered in presence of—
C. B. YAHESKU.

J. C. YAHESKU, for the signature of John A. Sutter, Henry E. Robinson, John S. Fowler, John McDougall.

Witnesses on the part of Ann Sutter—
G. W. LAWRENCE.
WM. W. WARREN.

STATE OF CALIFORNIA,
County of Sacramento, ss:

I hereby certify that on this the first day of July, A. D. 1850, personally appeared before me, a notary public in and for said county, John A. Sutter, H. E. Robinson, John S. Fowler, Eugene F. Gillespie, and John McDougall, known to me to be the persons described in and who executed the annexed conveyance, and acknowledged that they executed the same freely and voluntarily for the purposes and uses therein mentioned.

[SEAL.] Witness my hand and notarial seal this the day and year aforesaid.

WM. S. JACKSON,
Notary Public.

STATE OF CALIFORNIA,
County of Sutter, ss:

221 On this the 8th day of July, A. D. 1850, personally appeared before me, a deputy recorder in and for the said county, John A. Sutter, known to me to be the person described in and who

executed the annexed conveyance, and acknowledged the same to be his free and voluntary act for the uses and purposes therein mentioned.

In testimony whereof, I hereunto affix my name and seal the day and date aforesaid.

G. W. LAWRENCE,
Dep't. Recorder for Sutter County.

(The official seal not executed.—G. W. L.)

STATE OF CALIFORNIA,
County of Sutter, ss:

On this the 8th day of July, A. D. 1850, personally appeared before me, a dep't. recorder in and for the said county, Ann Sutter, wife of John A. Sutter, known to me to be the person whose name is subscribed to the annexed conveyance as a party thereto, and being examined by me privately and apart from her husband, and having the contents of said conveyance fully explained to her, she
222 acknowledged that she executed the same freely and voluntarily, without fear or compulsion, or under influence of her husband; that she did not wish to retract the execution of the same.

In testimony whereof, I hereunto set my hand and affix my **private seal*, (as yet no official seal provided,) the day and date aforesaid.

G. W. LAWRENCE,
Dep't. Recorder for Sutter County.

Recorded July 11th, A. D. 1850, at 2.40 o'c. p. m.

THO'S J. ABY.
Dep't. Recorder.

STATE OF CALIFORNIA,
County of Sacramento, ss:

I hereby certify that the above and the foregoing is a full, true, and correct copy of deed from John A. Sutter and wife to Henry E. Robinson, John S. Fowler, Eugene F. Gillespie, and John McDougall, as recorded in book "D" of deeds, pages 268, 269, 270, and 271, records of Sacramento county. The words "to time," on the 14th line, interlined in copy, but not in original.

In testimony whereof, I hereunto subscribe my name and
223 affix my seal of office, at Sacramento City, this nineteenth day of April, A. D. 1851.

JOHN L. CRAIG.

Recorded Sacramento county.

Endorsed: Filed May 5, 1862.

W. H. CHEVERS, *Clerk.*

*The official seal not yet executed.

Dep. of John Bidwell on part of U. S.

In the district court of the United States for the northern district of California.

THE UNITED STATES *vs.* THOS. O. LARKIN. } In land cases, district court No. 358.—Land com. No. 129.

Be it remembered that on this 10th day of March, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California, to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States,
224 pursuant to the act of Congress in that behalf, personally appeared John Bidwell, a witness produced in behalf of the United States in the above-entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows:

Present: W. H. Sharp, esq., U. S. att'y for the U. S., and J. B. Crockett, esq., for claimant.

Questions in behalf of the United States.

Question 1st. Are you the same Mr. Bidwell who was examined in this case March 19th, 1860?

Ans. Yes, sir.

2. Examine the original diseño in this case produced from the U. S. surveyor general's office, and bearing the signature of Micheltorena, a copy of which is filed in the transcript herein, and state from what data you made said diseño?

Ans. I made it from the original map of Vioget, retained by Sutter in his possession, in connection with personal observa-
225 tions. I copied from Vioget's map as far as I then understood would fall the parallel of thirty-nine degrees thirty-three minutes and forty-five seconds (39° 33′ 45″) north, and above that line I was guided by my own observations.

3. In drawing said diseño was it or not your intention that the southern line of the land petitioned for by Flugge was to be identical with the northern line of the tract asked for by Sutter, or did you intend that the southern line of Flugge should intersect the Feather river at the precise point or bend of that river where the line 39° 33′ 45″ crosses it on the diseño?

Ans. I understood, and I know also that Mr. Flugge understood, that his southern line would be identical with that of Sutter's northern line. I also thought, from the best information that I had at the time, that the line would fall not far from the point represented on the diseño, and, also, I judged (from merely travelling over the land, not actual measurement,) that the north line of Flugge's grant would not

extend far above the two rancherias, "Boga" and "Daischera."
226 After the diseño was made, however, Mr. Flugge believed that his land might extend farther up, and requested me to stain the diseño, so as to show a greater length on Feather river. At that time Flugge was Sutter's right-hand man, and it was clearly understood between Flugge and myself that the land solicited by Flugge, and shown by the diseño, was to begin where Sutter's northern line should actually be, and I located the northern line of Sutter on the diseño, according to the best means of information I then had.

4. At the time that you drew this diseño had you access to, or had you previously seen, the original grant or a copy of it from Governor Alvarado to John A. Sutter, for eleven leagues of land, dated 18th of June, 1841?

Ans. I cannot say that I had ever seen the original grant or a copy of it up to that time.

5. You have stated that in making Flugge's diseño you were assisted by the map of Vioget, which Sutter retained in his pos-
227 session; examine the document now shown you, to be attached to this deposition and marked Exhibit Bidwell No. 1, and state whether or not it is a substantially correct copy of the said Vioget map.

Ans. I recognise it to be a copy of the map made by Vioget. The original of this exhibit was made in 1843 by Vioget, from one of the maps made by him in 1841, and is upon a reduced scale, Vioget not having paper large enough to make a copy the same size as the original. I have often seen the original of this exhibit.

6. Please examine the document now shown you, produced from the U. S. surveyor general's office, a copy of which is to be attached to this deposition, and marked Exhibit "Bidwell No. 2." State, if you know, what it is, when, and by whom it was made.

Ans. It is a map of the Sacramento valley, and was made by me at the request of Governor Micheltorena in the fall of 1844. I delivered it to Micheltorena, or his secretary of state, Man'l Jimeno, since
228 which time it has not been in my possession, and I now notice some few additions, such as the names and boundaries of certain grants, which were not there at the time I so delivered it.

7. In making the map of which Exhibit Bidwell No. 2 is a copy, state how you obtained the data of that portion which is marked "Terreno de Sutter?"

Ans. I took it from Sutter's map in Monterey, given to me by Jimeno, then secretary of state. The archives were kept at Monterey at that time. I got it for the purpose of making a diseño for the expediente of Sutter's twenty-two league grant.

8. On Vioget's map, of which Exhibit Bidwell No. 1 is a copy, and also in the original diseño of Flugge, is a line marked "39° 33′ 45″," but which does not appear on the original of Exhibit Bidwell No. 2. State whether or not the north line of the tract marked Terreno de Sutter on the original of Exhibit Bidwell No. 2 was intended
229 to be identical with the lines marked 39° 33′ 45," on the original of Exhibit Bidwell No. 1, and the original diseño of Flugge.

Ans. It was intended to be the same. The Sutter map in the archives had it on.

9. State whether you recollect having, some time in 1858, testified in the district court of the 15th judicial district of the State of California, in a suit between Moore, Henshaw, and Ord, plaintiffs, and Nicholas Roff *et als.*, defendants; if so, whether the notes of testimony given by you at that time, as shown by Exhibit Bidwell No. 3, to be attached to this deposition, are correct.

Ans. I think they are substantially correct.

Counsel for claimant excepted, at the time, to each of the foregoing questions and answers, as incompetent, irrelevant, and as inadmissible to explain, add to, or contradict the grant, and the decree of confirmation.

Cross-examination.—Questions by counsel for claimant.

230 Ques. 10. Did all the natural objects exhibited on the original diseño in this cause, exist on the ground at the time the said diseño was made?

Ans. They did.

11. Does the said diseño exhibit correctly the several rancherias thereon delineated, and the mouth of the Honcut creek in relation to Sutter's north line, as you then understood it to be?

Ans. I do not pretend to absolute accuracy, but they are located as correctly as the data in my possession at the time enabled me to do.

12. Does the said diseño represent correctly the land which both Flugge and yourself at the time understood to be that *that* which he was petitioning for?

Ans. It does represent it as I then understood it.

Direct examination resumed.—Questions by counsel for the U. S.

231 Ques. 13. Examine the original of Bidwell No. 2, and state whether the signatures of Manuel Jimeno and Pablo de la Guerra are their genuine signatures.

Ans. I am satisfied that the signature of Jimeno is genuine; also the *rubric* to the signature of de la Guerra is genuine, and I have no doubt that the whole signature is his.

Deposition closed.

J. BIDWELL.

Subscribed and sworn to this 10th day of March, A. D. 1862, before me.

W. H. CHEVERS, *U. S. Com.*

Endorsed: Filed May 5th, 1862.

W. H. CHEVERS, *Clerk.*

(Here follows Exhibit Nos. 1 and 2 to dep. of Bidwell, page 231.)

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, E. F. Beale, surveyor general of the United States for the State of California, and as such having in my office and in my charge and custody the papers of the late board of commissioners to ascertain and settle the private land claims in California, by virtue of the power vested in me by law, do hereby certify that the preceding and hereunto annexed pages, numbered from one to ———, inclusive, exhibits a true, full, and correct copy of an exhibit, together with the endorsements thereon as found in case No. 82, John A. Sutter, New Helvetia, filed in office March 8, 1855.

In testimony whereof, I have hereunto signed my name offi-
[SEAL.] cially, and caused my seal of office to be affixed, at the city of San Francisco, this 3d day of March, 1862.

E. F. BEALE,
U. S. Surveyor General for California.

232 OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, E. F. Beale, surveyor general of the United States for the State of California, and as such having in my office and in my charge and custody the papers of the late board of commissioners to ascertain and settle the private land claims in California, by virtue of the power vested in me by law, do hereby certify that the preceding and hereunto annexed pages, numbered from one to ———, inclusive, exhibits a true, full, and correct copy of an exhibit, together with the endorsements thereon, as found in case No. 147, Charles Covilland *et al.*, Rancho de Honcut, filed in office Sep't 6th, 1853.

In testimony whereof, I have hereunto signed my name
[SEAL.] officially, and caused my seal of office to be affixed, at the city of San Francisco, this 3d day of March, 1862.

E. F. BEALE,
U. S. Surveyor General for California.

233 *Exhibit Bidwell No. 3, for U. S.*

District court, 15th judicial district.

STATE OF CALIFORNIA,
County of Butte:

MOORE, HENSHAW & ORD
vs.
NICHOLAS ROFF *et als.*

Def'ts' testimony, as taken by the judge.

Maj. John Bidwell stated that the object of the testimony of this witness to be, to show that the land now claimed by pl'ffs, in their

complaint, is different from that claimed or described in the grant from the Mexican gov't.

Evidence objected to by pl'ffs, and taken by consent of counsel and held under advisement by court.

I made the original map of which copy is shown in depo. of Brodie. The starting point on south was Sutter's north line.

At time map was made it was supposed Sut'r's line would be about 3 leagues south of Boga rancheria. Rancheria lay ½ mile north of township 17 in township 18. The north line of Sutter's came above and included the most northern of the 3 principal Butte moun-
234 tains. Don't know anything of the mound or hill shown on original map; suppose it was for foot hills. Grant was intended for 4 leagues, and one in width. I made no survey of ground at time. I can't remember a tree represented to be Sutter's north line. In fall of '43 I made map, from Sutter's N. line to foot hills to Flugge, supposed to embrace all land between Sutter's and foot hills. Flugge got a grant for 5 leagues, being land on map; he did not occupy his claim; did not meet with respect, and Fernandez wished land. Sutter told him he might get this land, and I made him a map of the land. The map to Fernandez was made from memory, and very hurriedly. After examination, I find that the distance from the Boga ranch to Sutter's, reported with land, was 4 leagues.

(Here follows diseño, page 235.)

236 Dist. court, 15th judicial dist.

STATE OF CAL.,
County Butte:

MOORE, HENSHAW & ORD
vs.
NICHOLAS ROFF & others.

John A. Sutter, exam. on the part of N. Roff and others.

Ewer & Wilkins, att'ys.

Quest. Do you know of a Mexican grant known as the Fernandez grant; and if so, where is it located?

Ans. I do. It is located on my northern boundary, on the west bank of Feather river. I mean by my boundary, the northern boundary of John A. Sutter's grant.

Quest. At what point does that grant (the Fernandez) commence and in what direction did it run?

Ans. It began where Sutter's northern boundary line intersected Feather river, and runs along the Feather river in a northern direction, 4 leagues long and one league wide from the river. The western boundary line follows the meanderings of Feather river.
237 Quest. Do you know of any grant located upon the same tract of land, prior to the Fernandez grant; and if so, what was and is it called?

Ans. The Flugge grant had been located on the same tract of land, commencing at the same point as the Fernandez grant, and running in the same direction along Feather river, one league wide and five leagues long.

Quest. State all you know in relation to the location of the Flugge grant?

Ans. When the Flugge grant was located, Flugge was in my employ as secretary. When he had his title, I gave him possession and considered him the owner, but he neglected to fulfill the conditions of the Mexican government relative to grants, to occupy the land within one year's time. He left this section of the country without occupying the land, and went to San Francisco first, and from their to Monterey and Los Angeles to reside. Flugge never separated his land from the government land, and never had it surveyed.

238 Quest. State all you know in relation to the location of the Fernandez grant.

Ans. The brother-in-law to the two Fernandez, came to the Sutter's fort, and I believe Maj. Bidwell was present, and enquired if there was any public land to locate. Maj. Bidwell and myself both informed him that the Flugge grant was subject to location, and the brother-in-law to the two Fernandez took out a certificate in the name of the two Fernandez, that the Flugge grant was vacant and unoccupied. Maj. Bidwell made them a map of the land.

Quest. Did you occupy an official position under the Mexican government at the time the Flugge and Fernandez grants were made; and if so, what was that position?

Ans. I did, and I was military commandant of the northern frontier, and I was encharged with the civil, military, and criminal jurisdiction of the Sacramento valley. My jurisdiction extended over the lands in question.

239 Quest. State the manner of locating and denominating Mexican grants established by custom, at the date of locating the Fernandez grant?

Ans. The mode of locating grants was to apply to me as the primary Mexican officer for a certificate that the land was vacant and unoccupied. The manner of denouncing was by applying to me as the primary Mexican officer, for land within my jurisdiction, obtaining a certificate showing the land petitioned for were vacant and unoccupied; and whether the lands had been previously granted or not, the mode of applying for them was the same, and when they had been previously granted, this was termed denunciation.

Quest. State at what time the Flugge grant and the Fernandez grant was located.

Ans. The Flugge grant was located some time in A. D. 1844, and the Fernandez grant was located some time in the spring of A. D. 1846.

Do you know whether the conditions of the Fernandez grant under the Mexican government were complied with?

So far as I know they were not. The Fernandez did not
240 occupy the land, nor did they ever have possession, nor did

they ever apply to me for possession of the same, as was required of them under the laws and customs of the Mexican government at that time.

J. A. SUTTER.

Sworn and subscribed to before me, this 13th day of Jan., A. D. 1858, being carefully read to the witness and corrected by him before being subscribed.

J. LANDORS SMITH,
J. P., Sutter County.

STATE OF CALIFORNIA,
County of Butte:

I, M. H. Danach, clerk of the district court of the 15th judicial district, in and for Butte county, State aforesaid, do hereby certify the foregoing to be true copies of the testimony of Maj. John Bidwell, and the deposition of Jno. A. Sutter, in the cause of Moore, Henshaw and Ord *vs.* Nicholas Roff *et al.*, now on file in my office.

In testimony whereof, I have hereunto set my hand and
241 [SEAL.] affixed the seal of said court on this the 21st day of November, A. D. 1859.

M. H. DANACH, *Clerk,*
By J. MARPLE, *Dep'y.*

Endorsed: Filed May 5, 1862.

W. H. CHEVERS, *Clerk.*

Dep. of C. Bielawski, on part of U. S.

In the district court of the United States for the northern district of California.

THE UNITED STATES *v.* THO'S O. LARKIN. } In land cases.—Dist. court No. 358.—Land com. No. 129.

Be it remembered that on this 15th day of March, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California, to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pur-
242 suant to the acts of Congress in that behalf, personally appeared C. Bielawski, a witness produced in behalf of the United States in the above-entitled cause, now pending in said court under the acts of Congress to ascertain and settle the private land claims in the State of California, who being duly sworn, testified as follows:

Present: W. H. Sharp, esq., U. S. att'y for the U. S., and J. B. Crockett, esq., for claimant.

Questions in behalf of the United States.

Question 1st. What is your name, age, place of residence, and occupation?

Ans. My name is Casimir Bielawski; I am forty-seven years of age; I reside in San Francisco; I am principal draughtsman in the office of the U. S. surveyor general.

2. How long have you been employed as draughtsman in the U. S. surveyor general's office?

Ans. About eight years.

3. What are the duties of your employment?

243 Ans. I have to examine the field-notes of the U. S. deputy surveyors, returned to the office of surveys of public lands and private grants, compile the maps therefrom, which, after they are approved by the surveyor general, are under my personal supervision.

4. Examine the plat now shown you, marked Exhibit Bielawski No. 1, to be attached to this deposition, and state who made it, and what it represents topographically.

Ans. I made the map myself. It represents the true course of the Sacramento, the Feather, the Yuba, the American, and the Bear rivers, and Honcut creek.

5. From what data did you lay down the courses of the streams you have mentioned, and of the place on said exhibit marked "Foot hills?"

Ans. From maps of official surveys on file in the U. S. surveyor general's office.

6. Examine the original of Exhibit Bidwell No. 1, said original being map A. P. L., to the deposition of John J. Vioget,

244 filed in the case of the U. S. *vs.* John A. Sutter, No. 319, and state whether you have located on Exhibit Bielawski No. 1 the line on said map A. P. L. marked "*Lindero latitud norte* 38° 41′ 32″."

Ans. I located that line on Exhibit Bielawski No. 1 in two different ways: first, by the difference of latitude between that line and the junction of the Sacramento and Feather rivers on map A. P. L.; and second, by the difference of latitudes between said line and the junction of the Sacramento and American rivers on map "A. P. L."

7. Answer the same question with regard to the line on said map A. P. L. marked "Latitud 38° 45′ 42″."

Ans. I located the line of this latitude also in two ways in the same manner.

8. Answer the same question with respect to the line on said map A. P. L. marked "Latitud 39° 1′ 45″."

245 Ans. The line of this latitude is represented by a due east and west line going through the junction of the Sacramento and Feather rivers, precisely as it is represented on said map A. P. L.

9. Answer the same question with respect to the line on map A. P. L. marked "*Lindero latitud norte* 39° 33′ 45″."

Ans. This line I located in two different ways: first, by the difference in latitude between that line and the junction of the Sacramento and Feather rivers, and marked "A. P. L.;" second, by the difference of latitudes between said line and the junction of Feather and Yuba rivers, and marked "A. P. L."

10. In locating these lines did you pay any regard to the lines of latitude, as actually ascertained by observation, or merely as certain

ines laid down on map A. P. L., as crossing the Sacramento and Feather rivers at certain points?

246 Ans. I located those lines on Exhibit Bielawski No. 1. as the same lines are shown on map A. P. L., without regard to actual latitudes.

11. What is the distance in a north and south direction between the line marked on A. P. L. "Lindero latitud norte 38° 41′ 32″," and the line on the same map marked "Lindero latitud 39° 33′ 45″," as shown by the scale of map A. P. L.?

Ans. Fifty-one and one-half miles.

12. Judging by the scale on map A. P. L., can you tell what mile is used in estimating the miles of latitude on said map?

Ans. I find, after a careful examination of the map A. P. L., that one minute of difference of latitude represents one English statute mile.

13. State the actual distance north and south between the lines marked, respectively, "38° 41′ 32″" and "39° 33′ 45″," as you have located them on Exhibit Bielawski No. 1.

247 Ans. The distance in a due north direction between the two lines marked "A. A." on Exhibit Bielawski No. 1, is fifty-two miles and seventeen chains, and the distance between the two lines marked "B. B." is fifty-one miles and seventy-three chains.

14. Examine Exhibit U. S. No. 1, and Exhibit U. S. No. 2, being copies of the espediente and grant from Juan B. Alvarado to John A. Sutter, and locate on Exhibit Bielawski No. 1 the lines expressed in the third condition of the grant to wit: "39° 41′ 45″ north latitude, "and 38° 49′ 32″ north latitude."

Ans. I located them in two different ways: drawing the lines "C. C." eight miles north of the lines "A. A.," and the lines "D. D." eight miles north of the lines "B. B.," eight miles being the difference in northing between the lines shown as linderos on the map A. P. L. and the lines of the grant as expressed in the third condition thereof.

15. Look at the copy of the diseño in this case, the original of which is verified by the signature of Micheltorena, and locate

248 on Exhibit Bielawski No. 1 the place shown on said diseño as the "Rancheria de Honcut."

Ans. I have located it by the distance measured on the diseño between the mouth of the Arroyo de Honcut and the Rancheria de Honcut. By measuring on the diseño the distance from the mouth of the Yuba river to the Rancheria de Honcut, the location of said *rancheria* would fall on Exhibit Bielawski No. 1, north of Honcut creek. Measuring from the mouth of the Feather river by the scale of the diseño, it would fall at the point "R."

16. Examine Exhibit Gillespie No. 1, being certified copy of a deed from Robinson and others to Edward Dugan, dated August 13th, 1853, and state whether you have located the land conveyed by said deed on Exhibit Bielawski No. 1?

Ans. I located said tract of land. It is colored yellow, and marked "Dugan" on said exhibit.

Counsel for claimant objects and objected at the time to each
249 of the foregoing questions and answers as irrelevant and incompetent.

Cross-examination.

Questions by counsel for claimant.

Ques. 17. Please locate on Exhibit Bielawski No. 1, according to the scale of the diseño in this cause, and measuring from the mouth of the Feather river, the line marked on the diseño norte 39° 33′ 45,″ and also measuring from the mouth of Honcut creek, as shown on the diseño?

Ans. Measuring from the mouth of the Feather river, it would cross the said river at the letter X. Measuring from the mouth of Honcut creek, it would cross the Feather river about where the south line of Dugan's tract shaded yellow strikes the river.

Deposition closed.

C. BIELAWSKI.

Subscribed and sworn to before me this 15th day of March, A. D. 1862.

W. H. CHEVERS, *U. S. Comm'r.*

Endorsed: Filed May 5th, 1862.

W. H. CHEVERS, *Clerk.*

(Here follows map, page 250.)

Exhibit.—Gillespie, No. 1, for U. S. to dep. of C. Bielawski.

Robinson, McDougal, Gillespie and Mesick to Edward Dugan.—Deed.

This indenture, made this thirteenth day of August, A. D. one thousand eight hundred and fifty-three, between Henry E. Robinson, John F. McDougal, Eugene F. Gillespie and William S. Mesick, of the State of California, parties of the first part, and Edward Dugan, of the county of Sutter, State aforesaid, party of the second part, witnesseth that the said parties of the first part, for and in consideration of the sum of six hundred and forty-eight dollars and thirty-saven cents, (648 37,) to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, and the further consideration that the said Edward Dugan has this day executed to the said parties of the first part his certain bond bearing even date herewith for the payment of the further sum of one thousand nine hundred and forty-five dollars and thirteen cents, being the balance of the purchase money for the herein conveyed
252 premises, payable according to the conditions of the above-named bond, having sold and conveyed, and by these presents do sell and convey, unto the said party of the second part and to his heirs and assigns forever, all that certain tract, piece or parcel of

land lying on the west bank of Feather river and bounded and described as follows, to wit: commencing at the corner of section sixteen, (16,) fifteen, (15,) twenty-one, (21,) and twenty-two, (22,) from which a forked live oak, 18 inch diameter, marked T. 16 N., R. 3 E., S. 15, bears N. 68, E. 110 links, a leaning live oak, 18 inches diameter, marked T. 16 N., R. 3 E., S. 22, bears S. 37° E. 82 links, a white oak, 20 inches in diameter, marked T. 16 N., R. 3 E., S. 22, bears S. 1½° E. 86 links; thence running due west (magnetic variation 16° 30′ E.) with line dividing 16 from 21 forty (40) chains to ¼ section corner, it being said Dugan's N.W. corner, from which a live oak, twelve inches diameter, marked T. 16 N., R. 3 E., S. 21, bears S. 56° E. 82 links, a pine oak, 18 inches diameter, marked T. 16 N., R. 3 E., S. 16, bears 32¼° E. 50 links, a pine oak, 18 inches diameter, marked T. 16 N., R. 3 E., S. 16, bears 32¼° E. 50 links, thence south sixty (60) chains to a post for said Dugan's S.W. corner, from which a white oak, 30 inches diameter, marked
253 with three backs, bears N. 33¼° E. 144 links, a forked live oak, 36 inches diameter, blazed and marked, bears S. 82° E. 118 links, thence east (crossing line between sections 21 and 22 at (40) chains, entering low bottom at fifty-nine (59) chains, one hundred and five (105) chains to a post on West bank of Feather river, set and marked for said Dugan's S.E. corner, thence up Feather river with its meanderings N. 14¾° 7.00 chains, N. 19½° E. H. 00 chains, N. 79¼, W. 11.00 chains, N. 83½° W. 9.00 chains, S. 87, W. 11.80 chains, S. 76½° W. 10.25 chains, N. 56° W. 21.70 chains, N. 35¼°, W. 4.00 chains, N. 21¼° W. 12.51 chains, to a post in a line dividing fractional section 15 from 22, marked for said Dugan's N.E. corner, from which a white oak, 24 inches diameter, marked section 22, bears S. 78½° W. 14 links, a white oak, 22 inches diameter, marked section 15, bears N. 62¼° W. 22 links, thence west 8.95 chains to the place of beginning, containing five hundred eight $\frac{7}{10}$ acres, together with all and singular the tenements and appurtenances thereunto belonging or in anywise appertaining. To have and to hold the above bargained and conveyed premises unto the said party of the second part
254 his heirs and assigns forever; and the said parties of the first part do hereby covenant that the said premises are free and clear from all and every incumbrance made or constituted by them, and that the said premises unto the said party of the second part, his heirs or assigns, they will forever warrant and defend against the claim of all and every person claiming, or to claim by, through, or under them.

Witness onr hands and seals the day and year first above written.

HENRY E. ROBINSON and
JOHN McDOUGAL,
Per EUGENE F. GILLESPIE.
Att'y in fact.

In presence of—
EUGENE F. GILLESPIE.
WM. S. MESICK.

STATE OF CALIFORNIA, *County of Yuba.*

On this thirteenth day of August, A. D. 1853, personally appeared before me, a notary public in and for the county of Yuba, John McDougal and Henry E. Robinson, by their attorney in fact, Eugene F. Gillespie, W. S. Mesick and Eugene F. Gillespie known to
255 me to be the person described in and who executed the foregoing conveyance by their said attorney and themselves, the said Gillespie known to me to be the attorney in fact of the said Robinson and McDougal, and acknowledged to me that they executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

Witness my hand and seal the day and date last above written.

S. M. MILES,
Notary Public, in and for Yuba county.

Filed for record August 16th, A. D. 1853, at 9 o'clock a. m., and duly recorded at request of the grantor.

STATE OF CALIFORNIA,
County of Sutter, ss:

I, C. E. Wilcoxon, co. recorder in and for Sutter county, do hereby certify that the above and foregoing is a full, true, and correct copy of an instrument of writing as the same now remains of record in my office, in book "D" of deeds, Sutter county records, at pages 71, 72 and 73.

[SEAL.] Witness my hand and official seal, this thirty-first day of July, A. D. 1861.

C. E. WILCOXON,
Co. Recorder.
By S. J. STAHLER,
256 *Dep. Recorder.*

Endorsed: Filed May 5, 1862.

W. H. CHEVERS, *Clerk.*

Order entered affirming decision of court made March 16, 1861.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Wednesday the 29th day of October, in the year of our Lord one thousand eight hundred and sixty-two.

Present, the honorable Ogden Hoffman, district judge.

THE UNITED STATES
v.
THOMAS O. LARKIN, } No. 358.

This cause came on to be heard upon the testimony taken in pursuance of the order of this court of Feb'y 26, 1862, and counsel for the respective parties having been heard and due deliberation

257 had in the premises, it is now ordered and adjudged, that the decision of the court rendered March 16, 1861, be and the same hereby is reaffirmed.

Endorsed: Filed October 29, 1862.

W. H. CHEVERS, *Clerk.*

Order rejecting survey and directing new survey.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Saturday, the 15th day of November, in the year of our Lord one thousand eight hundred and sixty-two.

Present, the honorable Ogden Hoffman, district judge.

THE UNITED STATES
v.
THOMAS O. LARKIN. } No. 358.

This cause came on to be heard on exceptions of the U. S. to the official survey of the land confirmed to the claimant, on the testimony and evidence taken in pursuance of said exceptions, and
258 on the further evidence taken by the order of the court of Feb'y 26, 1862, and counsel for the respective parties having been heard and due deliberation had, it is now by the court ordered, adjudged and decreed, that the said exceptions be, and the same hereby are, in part sustained, and that the official survey shown by the plat filed Dec. 7, 1859, be, and the same hereby is, set aside as erroneous. And it is further ordered that the surveyor general of the U. S. for Cal'a correct and reform the said survey and location, and return a plat showing the same in conformity with this order to this court for its approval. And it is further ordered that the said survey and location be corrected and reformed as follows: The southern line to be run as indicated in the diseño in the espediente marked "7 S. D. K.," and authenticated by the signature and rubric of Michelt'a, by the natural objects thereon represented, and thence northwardly along the Feather river five leagues—the width of said tract lying along the river to be one league, making five square leagues and no more.

And it is further ordered that a certified copy of this order
259 be served upon the said surveyor general by the U. S. marshal.

OGDEN HOFFMAN, *Dist. Judge.*

Endorsed: I hereby certify that I this day served a certified copy of the within order on the U. S. surveyor general, by leaving a copy thereof with the chief clerk.

Dated San Francisco, November 18th, 1862.

CHAS. W. RAND,
U. S. Marshal.
Per GEO. F. WORTH, *Deputy.*

Filed November 15, 1862.

W. H. CHEVERS, *Clerk.*

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No.	Course.	Dist.	No.	Course.	Dist.	No.	Course.	Dist.	No.	Course.	Dist.
1	S. 14½ W..	5 50	37	S. 39 E..	3.00	73	N 84½ E..	7.50	109	S. 89½ W..	229.53
2	S. 20 "	7 50	38	S. 61½ W..	4.50	74	S. 45 "	16 50	110	North .	40.00
3	S. 23 "	12 00	39	S. 47 "	7.00	75	S. 63½ W..	6.00	111	S 89½ W..	40.00
4	S. 39½ "	8 80	40	S. 14 "	7.00	76	S. 22½ "	7.40	112	North .	660.00
5	S. 71 "	21 00	41	S. 5½ E..	4.50	77	S. 69½ "	4.00	113	S. 89½ W..	39.30
6	N. 73½ "	22 50	42	S. 24½ "	9.50	78	S. 39 "	4.50	114	North	140.00
7	N. 8½ "	8 00	43	S. 42½ "	9 50	79	S. 71½ "	6 30	115	N. 89½ E..	39.30
8	S. 51 "	7 00	44	S. 53½ "	3.00	80	N. 79 "	16.00	116	North	140.00
9	S. 4 E.	21 00	45	S. 61½ "	24 50	81	N. 52½ "	9.00	117	N. 89½ E..	39 30
10	S. 22 "	28 50	46	S. 59½ "	24.00	82	N 32 "	8.60	118	S. 9½ W..	213 41
11	S. 41½ "	15 20	47	S. 49½ "	12 00	83	S. 87½ "	10.00	119	S. 21½ E..	217.07
12	S. 43 "	32 80	48	S. 45½ W..	8.00	84	S. 31½ "	1.60	120	S. 57½ "	14.52
13	S. 37½ "	15 00	49	S. 12½ "	9.50	85	S. 60 "	4.50	121	S. 42 "	21.54
14	S. 65 "	24 00	50	S. 49 "	18.00	86	S. 16 "	5.00	122	S. 22 "	25.30
15	S. 4½ "	12 00	51	S. 78 "	23.00	87	South	20.50	123	S. 9 W..	12 00
16	S. 13½ "	31 00	52	S. 28½ "	7.00	88	S. 9 E..	15.50	124	S. 24 "	19.00
17	S. 1½ "	11 00	53	S. 3 E	5.00	89	S 5 W..	19.50	125	S. 18 "	18.00
18	S. 27 "	10 00	54	S. 25½ "	11.00	90	S. 12 "	9.00	126	S. 17 "	34.00
19	S. 35 "	5 50	55	S. 22½ "	6.00	91	S. 3 "	21.00	127	S. 38 "	4 90
20	S. 52½ "	8 50	56	S. 8½ W.	11.60	92	S. 16½ E..	8.00	128	S. 44½ "	18.00
21	S. ½ W.	12 00	57	S. 6 E..	13.50	93	S. 5½ "	15.00	129	S. 43 "	15.00
22	S. 56½ "	30 50	58	S. 16 "	3.80	94	S. 34½ "	5.00	130	S. 12 "	25.70
23	S. 35 "	9 50	59	S. 24½ "	9.50	95	S. 67 "	6.50			5.80
24	S. 1½ E..	19 00	60	S. 13½ "	13.00	96	S. 38½ "	5.00			15.29
25	S. 14 "	15 00	61	S. 39½ "	9.50	97	S. 65 "	4.00			
26	S. 3½ "	10 50	62	S. 65½ "	13.00	98	S. 40 "	12.50			
27	S. 10½ "	9 50	63	S. 61½ "	7.00	99	S. 13½ W..	22.70			
28	S. 3½ "	11 80	64	S. 16 "	6.50	100	S. 36 E..	4.58			
29	S. 12½ "	7 00	65	S. 10 "	6.50	101	S. 9½ "	6.00			
30	S. 30½ "	10 00	66	S. 12½ W..	6.30	102	S. 23½ "	7.00			
31	S. 5½ "	19 50	67	S. 55 "	12.00	103	S. 47½ "	9.80			
32	S. 31½ W..	32 50	68	N. 76½ "	25 00	104	South	2.50			
33	S. 12 "	10 50	69	S. 52 "	10.00	105	S. 55 E..	12.00			
34	S. 75 "	14 50	70	S. 32 "	9.00	106	N. 84 "	34.00			
35	N. 82½ "	5 50	71	S. 24½ E..	19.40	107	S. 79 "	11.00			
36	S. 70½ "	7 00	72	S. 55 "	25 00	108	S. 15 W..	12.14			

This plat of the Boga rancho has been compiled from examined and approved field-notes on record in this office of the survey of the Boga rancho, executed by James L. Trask, dep'y surv'r, in June, 1859, and of the survey of the Fernandez ranch, executed by A. P. Greene, dep'y surv'r, in April, 1857.

E. F. BEALE.

U. S. SURVEYOR GENERAL'S OFFICE,
San Francisco, California, January 9th, 1862.

U. S. SURVEYOR GENERAL'S OFFICE,
San Francisco, California.

I certify this to be a full, true, and correct copy of the original plat on file in this office, of the official survey of the Boga ranch, finally confirmed to Tho's C. Larkin.

In witness whereof, I have hereunto signed my name and caused the seal of this office to be affixed this the 10th day of January, 1863.

[L. S.]

E. F. BEALE,
U. S. Surv'r Gen'l Cal.

Approved January 15th, 1863.

OGDEN HOFFMAN,
Dist. Judge.

261 *Final decree.*

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Thursday, the 15th day of January, A. D. 1863.

Present: Hon. Ogden Hoffman, dist. judge.

THE UNITED STATES
v.
THOMAS O. LARKIN. } No. 358.

This cause came on to be heard on the exceptions of the United States to the official survey of the land confirmed to the said Thomas O. Larkin, a certified copy plat whereof was duly filed December 7, 1859; and the cause having regularly been brought to a hearing, counsel for the respective parties present, and due deliberation had in the premises, it was by the court ordered, adjudged, and decreed that the said exceptions of the United States be in part sustained, and that the surveyor general of the United States for California cause a plat of location to be made in conformity with the order
262 of the court made and entered November 15, 1862.

And it appearing to the court that the said surveyor general, in pursuance of said order, has returned to the court a plat of location of the land confirmed to said Larkin, which said plat was filed January 12, 1863, it is now ordered, adjudged, and decreed that the tract shown by said plat within the lines shaded brown, and containing $22,184\frac{66}{100}$ acres, is a good and valid location of the land confirmed to Thomas O. Larkin, and that the said location be, and the same hereby is, approved and confirmed.

And it is further ordered that the said plat filed January 12, 1863, and marked "approved January 15th, 1863, Ogden Hoffman, dist. judge," be attached to and made a part of this decree, for a more full and particular description of the land now finally confirmed to the said Thomas O. Larkin.

OGDEN HOFFMAN,
U. S. dist. judge.

Endorsed: Filed January 15th, 1863.

W. H. CHEVERS, *Clerk.*

263 *Order granting appeal in behalf of U. S.*

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Thursday, the fifteenth day of January, in the year of our Lord one thousand eight hundred and sixty-three.

Present: the honorable Ogden Hoffman, district judge.

THE UNITED STATES
v.
THOMAS O. LARKIN. } No. 358.

This cause having come on to be heard on objections to the survey and location by the surveyor general of the U. S. for California, of the land heretofore confirmed to the said Thomas O. Larkin, and the court having by its final decree, made and entered this 15th day of January, A. D. 1863, approved the location made by said surveyor general, in pursuance of the order of the court made Nov. 15, 1862,
now, on application of W. H. Sharp, esq., U. S. attorney,
264 it is ordered that an appeal in behalf of the United States from said final decree be, and the same is hereby, granted; and that a certified transcript of the record in said cause be sent to the Supreme Court of the United States without delay.

Endorsed: Filed January 15, 1863.

W. H. CHEVERS, *Clerk.*

Order allowing maps on file to form part of record on appeal.

THE UNITED STATES
v.
THOMAS O. LARKIN. } No. 358.

And now at this day, on application of W. H. Sharp, esq., U. S. attorney, it is ordered that the United States have leave to send up in the transcript of the record on appeal the copies of the nine plats or maps on file in the case in this court, instead of copies of the same, to wit:

Exhibit B. P. L. to deposition of N. Gray.
Two diseños attached to original papers.
Plat of survey made by U. S. surveyor general.
265 Exhibits 1 and 2, annexed to depos. of De Kirwan.
Exhibits 1 and 2, annexed to depos. of Bidwell.
Exhibit 1 annexed to depos. of Bielawski.
April 14, 1863.

OGDEN HOFFMAN,
Dist. Judge.

Endorsed: Filed April 14, 1863.

W. H. CHEVERS, *Clerk.*

266 I, William H. Sharp, district attorney of the United States for the northern district of California, by virtue of the power vested in me by law, to wit: under the act of the Congress of the United States, entitled "An act relative to appeals to the Supreme Court of the United States," approved August 6, 1861, do hereby certify that the annexed and foregoing two hundred and sixty-five consecutively numbered pages, together with the maps and plats